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NEW DELHI, SATURDAY, JANUARY 25, 1992/MAGHA 5, 1913

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

वित्त मंत्रालय
(राजस्व विभाग)
आदेश

नई दिल्ली, 10 दिसम्बर, 1991
(स्टाम्प)

1899 (2 of 1899), the Central Government hereby remits the
duty with which the bonds in the nature of promissory
notes described as "NRI Bonds (Second Series)" to be issued
by the State Bank of India are chargeable under the said
Act.

[No. 47/91-Stamps/F, No. 33/80/90-ST]

आदेश

नई दिल्ली, 1 जनवरी, 1992

स्टाम्प

का.आ. 237—भारतीय स्टाम्प अधिनियम, 1899
(1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (क)
द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार
एतद्वारा उस शुल्क को माफ करती है जो भारतीय
स्टेट बैंक द्वारा जारी किये जाने वाले "एन.आर.आई.
बाण्ड (द्वितीय शृंखला)" के रूप में वर्णित प्रोमिसरी नोट के
स्वरूप के बाण्डों पर उक्त अधिनियम के अन्तर्गत प्रभार्य है।

[सं. 47/91-स्टाम्प-फा.सं. 33/80/90-वि.क.]

MINISTRY OF FINANCE
(Department of Revenue)

ORDER

New Delhi, the 10th December, 1991
(STAMPS)

का.आ. 238—भारतीय स्टाम्प अधिनियम, 1899
(1899 का 2) की धारा 9 की उपधारा (1) के खण्ड
(क) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय
सरकार एतद्वारा उस शुल्क को माफ करती है जो
कर्नाटक राज्य वित्तीय निगम, बंगलूर, द्वारा जारी किये
जाने वाले आठ सौ पच्चीस लाख रुपये मात्र के मूल्य के
11.5% कर्नाटक राज्य वित्तीय निगम बाण्ड 2010
(2 शृंखला) (50वां अंक) के रूप में वर्णित प्रोमिसरी नोट
के स्वरूप के बाण्डों पर उक्त अधिनियम के अन्तर्गत
प्रभार्य हैं।

[सं. 1/91-स्टाम्प-फा.सं. 33/91/90-वि.क.]

ORDER

New Delhi, the 1st January, 1992

(STAMPS)

S.O. 238.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of promissory notes described as 11.5% Karnataka State Financial Corporation Bonds 2010 (II Series) (50th Issue) of the value of rupees eight hundred twenty five lakhs only to be issued by the Karnataka State Financial Corporation, Bangalore are chargeable under the said Act.

[No. 192-Stamps/F. No. 33/91/90-ST]

आदेश

स्टाम्प

का.आ. 239—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उम शुल्क को माफ करती है जो कर्नाटक राज्य वित्तीय निगम, बंगलूर द्वारा जारी किये जाने वाले मान सौ पन्द्रह लाख रुपये मात्र के मूल्य के 11.5% कर्नाटक राज्य वित्तीय निगम बाण्ड, 2011 (आवनवां अंक) के रूप में वर्णित प्रोमेसरी नोट के स्वरूप के बाण्डों पर उक्त अधिनियम के अन्तर्गत प्रभावी है।

[सं. 3/92-स्टाम्प-फा.सं. 33/91/90-वि.क.]

ORDER

(STAMPS)

S.O. 239.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of promissory notes described as 11.5% Karnataka State Financial Corporation Bonds 2011 (52nd Issue) of the value of rupees seven hundred fifteen lakhs only to be issued by the Karnataka State Financial Corporation, Bangalore are chargeable under the said Act.

[No. 3/92-Stamps/F. No. 33/91/90-ST.]

आदेश

स्टाम्प

का.आ. 240—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उम शुल्क को माफ करती है जो कर्नाटक राज्य वित्तीय निगम बंगलूर द्वारा जारी किये जाने वाले दो हजार दो सौ पचपन लाख रुपये मात्र के मूल्य के 11.5% कर्नाटक राज्य वित्तीय निगम बाण्ड 2010 (3 शृंखला) (51वां अंक) के रूप में वर्णित प्रोमेसरी नोट के स्वरूप के बाण्डों पर उक्त अधिनियम के अन्तर्गत प्रभावी है।

[सं. 2/92-स्टाम्प-फा.सं. 33/91/90-वि.क.]

आरमा राम, अवर सचिव

ORDER

(STAMPS)

S.O. 240.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of promissory notes described as 11.5% Karnataka State Financial Corporation Bonds, 2010 (III Series) (51st Issue) of the value of rupees two thousand two hundred fifty five lakhs only to be issued by the Karnataka State Financial Corporation, Bangalore are chargeable under the said Act.

[No. 2/92-Stamps/F. No. 33/91/90-ST]

ATMA RAM, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 1 जनवरी, 1992

का.आ. 241—राष्ट्रीयकृत बैंक (प्रबंध तथा प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 9 के उपखण्ड (2) के साथ पठित खण्ड 3 के उपखण्ड (ख) के अनुसरण में, केन्द्रीय सरकार एतद्वारा श्री रसिक मोरघन दास आचार्य, टंकक-सह-लिपिक, देना बैंक, अहमदाबाद को दिनांक 1 जनवरी, 1992 से 31 दिसम्बर, 1994 तक तीन वर्ष की अवधि के लिये या जब तक वे देना बैंक के एक कर्मचारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें जो पहले हो, श्री सो.ए. पाठक, जो भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) की अधिसूचना सं. एक. 15/5/82-आई.आर. दिनांक 22 अप्रैल, 1987 के अनुसरण में नियुक्त किये गये थे, के स्थान पर, देना बैंक के निदेशक बोर्ड में निदेशक नियुक्त करती है।

[संख्या 15/5/91-आई.आर.]

सतपाल भाटिया, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 1st January, 1992

S.O. 241.—In pursuance of sub-clause (b) of Clause 3 read with sub-clause (2) of the Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby appoints Shri Rasik Gordhandas Acharya, Typist-cum-Clerk, Dena Bank, Ahmedabad as a Director on the Board of Directors of Dena Bank for a period of 3 years with effect from 1st January, 1992 to 31st December, 1994 or until he ceases to be an employee of Dena Bank, whichever is earlier vice Shri C. A. Pathak appointed vide Notification of Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division), No. F. 15/5/82-IR dated 22nd April, 1987.

No. F. 15/5/91-I.R.]

S. P. BHATIA, Under Secy.

नई दिल्ली, 18 जनवरी 1992

का.आ. 242—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 के खण्ड 9 के साथ पठित खण्ड 3 के उपखण्ड (ग) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से सलाह करने के पश्चात्, एतद्वारा

श्री टी. कृष्णराज भट्ट मिडिल प्रबंधन ग्रेड (स्केल-2) के अधिकारी को, जो इस समय विजया बैंक के अंचल कार्यालय, बंगलूर में तैनात हैं, 8 जनवरी, 1992 से 3 वर्ष की अवधि के लिये या जब तक वे विजया बैंक के एक अधिकारी अधिकारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, विजया बैंक के निदेशक मण्डल में निदेशक नियुक्त करती है।

[सं. एफ 9/17/91-बी.ओ.-I]

New Delhi, the 8th January, 1992

S.O. 242.—In pursuance of sub-clause (c) of clause 3 read with clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri T. Krishnaraj Bhat, an officer in the Middle Management Grade (Scale-II), presently posted in the Zonal Office, Vijaya Bank, Bangalore, as a Director on the Board of Vijaya Bank with effect from the 8th January, 1992, for a period of three years or until he ceases to be an officer of Vijaya Bank whichever is earlier.

[No. F. 9/17/91-BO.I]

का.आ. 243—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबन्ध) स्कीम, 1970 के खण्ड 9 के साथ पठित खण्ड 3 के उप-खण्ड (ग) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से मलाह करने के पश्चात्, एतद्वारा, श्री बी.टी. रामाचन्द्रा रेड्डी शाखा प्रबंधक, देना बैंक, जयनगर शाखा, बंगलूर को 8 जनवरी 1992 से तीन वर्ष की अवधि के लिये या जब तक वे देना बैंक के एक अधिकारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, देना बैंक के निदेशक मण्डल में निदेशक के रूप में नियुक्त करती है।

[सं. एफ. 9/27/91-बी.ओ.-I]

एम.एस. सीतारामन, अव्वर सचिव

S.O. 243.—In pursuance of sub-clause (c) of clause 3 read with clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India hereby appoints Shri B. T. Ramachandra Reddy, Branch Manager, Dena Bank, Jayanagar Branch, Bangalore, as a Director on the Board of Dena Bank with effect from the 8th January, 1992 for a period of three years or until he ceases to be an officer of Dena Bank, whichever is earlier.

[F No. 9/27/91-BO.I]

M. S. SEETHARAMAN, Under Secy.

कार्यालय, मुख्य आयकर आयुक्त

कलकत्ता, 2 दिसम्बर, 1991

का.आ. 244—पिछले सभी अधिसूचनाओं के अतिरिक्त, आयकर अधिनियम, 1961 की धारा 120 की उपधारा (1) और (2) द्वारा और इसकी ओर से प्रदान करने वाली अन्य शक्तियों का प्रयोग करते हुए, मैं, मुख्य आयकर आयुक्त, कलकत्ता, एतद्वारा निदेश देता हूँ कि आयकर उपायुक्त रेंज-21 कलकत्ता के अधीन सभी आयकर अधिकारी (स्त्री, क.क.) और महायुक्त आयुक्त (स्त्री (क.क.)), जिला कलकत्ता, हावड़ा, उत्तर 24-परगना एवं दक्षिण 24-परगना, के निर्धारितियों के बारे में आ.अ. (स्त्री क.क.) और स.आ. (स्त्री क.क.) द्वारा की गई मांग के संबंध में, आयकर अधिनियम, 1961 के अध्याय 27 डी और अध्याय 21 के प्रावधानों के अधीन अपनी शक्तियों का प्रयोग करेंगे और कार्यों का निष्पादन करेंगे।

यह अधिसूचना दिनांक 9-12-1991 में प्रभावी होगी।

[संख्या-13/91-92]

डा. एन.आर. शिवस्वामी, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF

INCOME TAX

Calcutta, the 2nd December, 1991

S.O. 244.—In addition to all previous notifications in exercise of the powers conferred under sub-sections (1) and (2) of Section 120 of the Income Tax Act, 1961 and of all other powers enabling me in this behalf, I, the Chief Commissioner of Income Tax, Calcutta, hereby direct that all the Income Tax Officers (T.D.S.) and Assistant Commissioners (T.D.S.) under the control of the Deputy Commissioner of Income Tax, Range-21, Calcutta shall have power to exercise the powers and functions, under Chapter XVIII and Chapter XXI of the Income Tax Act, 1961, in respect of demands raised by ITDs (IDS) and ACs (TDS) with regard to all assessee of Calcutta, Howrah, North 24-Parganas and South 24-Parganas Districts.

This Notification will come into effect from 9th December, 1991.

[No. 13/91-92]

DR. N. R. SIVASWAMY, Chief Commissioner of Income Tax

खाद्य और नागरिक पूर्ति मंत्रालय
(नागरिक पूर्ति विभाग)
भारतीय मानक ब्यूरो
नई दिल्ली, 30 दिसम्बर, 1991

का.आ. 245.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन प्रमाणन मुहर लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, उनकी अवधि समाप्त हो गई है :

अनुसूची

क्र. लाइसेंस सं. सं. (सीएम/एल-)	संस्था का नाम	लाइसेंस की स्वीकृति अधिसूचित करने वाले राजपत्र की का.आ. सं. तथा दिनांक	अवधि समाप्ति की तिथि	
(1)	(2)	(3)	(4)	(5)
1. 0072429	किसान इंजीनियरिंग वर्क्स प्रा. लि., 15 जी. टी. रोड, गाजियाबाद-201001	226 : 1975		91-08-01
2. 0136934	वेस्टर्न इंडिया प्लाईवुड लि., मिल रोड, बालीपतम, कन्नोर-670010	709 : 1974		91-06-16
3. 0173435	फ्रीवेल एंड कं., एस-32-33, इण्डस्ट्रियल एरिया, जालंधर-144004	417(भाग 1) :		90-11-01
4. 0287955	पामासर डिस्टिलरिंग लि., चिनावाडगी 583211, होन्नपेट जि. बेलेरी	5287 : 1989		91-09-01
5. 0532841	सिम्हार बीड़ी उद्योग लि., कांग्रेस हाउस, एम.जी. रोड पो. बा. नं. 142 बाणिक-422001	1925 : 1974		91-08-01
6. 0617041	सत्यकाम डीजल इंजन मैनु कं , लालजी टोला, पटना	10001 : 1981		91-06-01
7. 0634546	बेक्टेश्वर एग्रो केमिकल्स एंड मिनेरल्स (पी) लि., प्लॉट 3-बी, (एन.पी) इण्डस्ट्रियल एस्टेट अम्बासूर, मद्रास-600098	4323 : 1980		91-08-16
8. 0721844	दि इंडिया जूट कं. लि., 16 स्ट्रैंड रोड, कलकत्ता-700001	2580 : 1982		91-09-16
9. 0851150	नार्थ बंगाल प्लाईवुड इंडस्ट्रीज, सेवोके रोड, (त्ररा मंजिल) डा. घ. एकतिया साल, सिलीगुड़ी, जिला जलपाईगुड़ी	10(भाग 2) : 1976		91-04-01
10. 0859974	पंचाल इंजी. वर्क्स, 30/31, जी. आई. डी. सी एस्टेट, उधव रोड, अहमदाबाद-382415	5117 : 1969		90-10-01
11. 0881361	मैकनो प्लास्ट, 6, हीरा कंपाउंड, नवजीवन कालोनी के सामने, चेम्बूर, बम्बई-74	694 : 1977		91-08-01

(1)	(2)	(3)	(4)
12. 0888678	रामा इंजीनियरिंग वर्क्स, कश्मीर रोड, बटाला-143505	1729 : 1979	91-08-16
13. 0891465	स्टीलेज इंडस्ट्रीज लि., डा. घ. मजगांव, बम्बई-400010	2878 : 1986	91-09-01
14. 0895170	रिलाईम जूट एंड इंडस्ट्रीज लि., 9, ब्रेवार्न रोड, कलकत्ता-700001	3694 : 1966	91-08-16
15. 1058440	असम बंगाल वेनीर इंड. प्रा. लि., 9, कनाइव रां, कलकत्ता-700001	10 (भाग 2) : 1976	91-03-16
16. 1076543	इंडो इंजीनियरिंग (कोटा) प्रा. लि., गुमानपुरा, कोटा-342007	398 (भाग 1) : 1976	91-01-01
17. 1107629	भारत पुलवराइजिंग मिल्स प्रा. लि., “हेक्मामर हाउस” 1074, थिस्वतिबुर हाड रोड मद्रास-600019	9359 : 1980	91-08-16
18. 1159648	जैम प्राइवेट लि., 9, सांतापुर रोड कलकत्ता-700088 पश्चिम बंगाल	493 (भाग 2) : 1981	84-02-16
19. 1183958	महाराष्ट्र एस्वेस्टस प्रा. लि., 305-ए, ग्रीन स्ट्रीट, ओल्ड कस्टम हाउस के सामने, बम्बई-400001	1592 : 1989	90-05-16
20. 1215531	एडीबिल कैमीकल इंड. प्लॉट नं. 4, रोड नं. 3 आई. डी. ए. बालानगर हैदराबाद-500037	2558 : 1974	91-07-31
21. 1216028	एडीबिल कैमीकल इंड. प्लॉट नं. 4, रोड नं. 3 आई. डी. ए. बाला नगर हैदराबाद-500037	1695 : 1974	91-08-01
22. 1227841	इलाहाबाद स्पन पाइप प्रा. लि., सी-32-33, इंडस्ट्रियल एस्टेट, नैनी, इलाहाबाद	458 : 1988	91-08-16
23. 1229138	प्रीमियर बिस्कुट प्रा. लि., एम. वाई नं. 35, भट्टारहल्ली 9वां मील, पुराना मद्रास रोड, बंगलौर-560049	1011 : 1981	91-09-01
24. 1304328	स्टील अथारटी आफ इंडिया, राउरकेला स्टील प्लांट, राउरकेला	6220 : 1989	91-09-01
25. 1329142	रामपियारी स्पन पाइप इंडिया, जे-11/66 नई बस्ती, वाराणसी	458 : 1988	91-08-16
26. 1389665	स्टील अथारटी आफ इंडिया, राउरकेला स्टील प्लांट, राउरकेला	5986 : 1970	91-09-01

(1)	(2)	(3)	(4)
27. 1437044	ग्रार एम ईंस्ट्रुज, ए-241, 242 (बी)-6-8 रोड, विश्वकर्मा ईंड. एरिया, जयपुर-302103	1977 : 1975	91-08-01
28. 1442845	कार्तिक दूल्म, 657/1, मरमिहमपट्टी ग्रा मेलूर तालुक, मदुरै जिला	2594 : 1977	91-08-16
29. 1502938	बालाजी बिट्टमेन, गुंडाला पोचामपल्ली मडकल, तालुक-रंगारेड्डी जिला	73 : 1961	90-01-31
30. 1549459	गिरीशचन्द्र एंड कं., दुर्गा आयाल मिल के पास, वेदश्वर, जामनगर	10325 : 1989	91-04-16
31. 1555959	टेक्नोजेनिक्स, 13-ए, दुर्गा चरन डॉक्टर रोड, कलकत्ता-700014	5780 : 1980	91-05-01
32. 1605140	इंटरपैक कंटेनर्स प्लॉट नं. 2, हलालपुर डा. घ. नयापुरा बैरागढ़ रोड, भोपाल -462032	10840 : 1986	91-09-01
33. 1641245	रेडियन्ट इंजीनियरिंग इंड (प्रा) लि. राश्रा पार्क, विशालखमिडाला, वरुंदपुर, 24 परगना (प. बं)	8598 : 1987	91-01-16
34. 1663457	कोयम्बतूर इलेक्ट्रिकल इक्विपमेंट प्रा लि., प्लॉट नं. 5, इले. एंड इलेक्ट्रॉनिक्स इंडस्ट्रियल एस्टेट, श्रवनाणी रोड, मिविल एयरोड्रोम पी. कोयम्बतूर-641014	4064 (भाग 1) — 1978	91-01-16
35. 1687774	रशोकी कंट्रोल केबलम, नं. 15, सर्वोदय इंड. एस्टेट, महाकाली केबल के भामने, ग्रंथेरी, बम्बई-400993	1554 (भाग 1) : 1988	91-09-16
36. 1688372	विनोद उद्योग प्रा. लि., याम एंव डा. अनमानो, पी एम जगाचा, हावड़ा	651 : 1980	91-05-16
37. 1689778	बंगाल लैम्प्स लि., पुराना मद्रास रोड (20वां किमी) बंगलौर-560049	2418 (भाग 1) : 1977	90-05-16
38. 1697878	पाइरो मार्टिनफिक एन्टर प्राइजेज डो/85, रेम कॉम, देहरादून	8808 : 1986	91-06-16
39. 1711543	जे. डी. जोन्स एंड कं. लि., 8 बंमेश शेक लेन, शिवपुर, हावड़ा	4687 : 1980	91-07-16

(1)	(2)	(3)	(4)
40. 1713749	जे. डी. जोन्स एंड कं. लि., 8 दमोण गेक लेन शिवपुर, हावड़ा	9066 : 1979	91-07-16
41. 1727154	समरकिंग एंटरप्राइजेज, 61, मालीबाड़ा बसन्त सिनेमा रोड, गार्जियाबाद-201001	2312 : 1967	91-09-01
42. 1750649	के. पी. इंडस्ट्रीज, टो. नगर, मद्रास	2567 : 1978	91-07-01
43. 1809055	भूषण इलेक्ट्रिकल इंडस्ट्रीज, डब्लू-192, गली चन्द्रशेखर, बावरपुर, शाहदरा दिल्ली-110032	694 : 1977	91-04-01
44. 1823958	बल्लभ पेस्टीमाइड्स मैनु. कं., आनंद भोजन रोड, पो बा 30, विट्ठल उद्योग नगर, बल्लभ विद्या नगर-388121	2568 : 1978	91-05-16
45. 1827461	आई डी एन केमिकल्स लि., प्लॉट नं. डी 53-54, साइट 4, मालिबाबाद इंडस्ट्रियल एरिया, गार्जियाबाद	8887 : 1978	91-06-01
46. 1828968	श्याम इंजीनियरिंग इंडस्ट्रीज, प्लॉट नं. 120, बी, इंड. एस्टेट पॉली ग्राउन्ड, इंदौर-452003	10325 : 1989	91-06-01
47. 1857268	तोशीबा होम एप्लाइज, प्लॉट नं. 126, सेक्टर 25, फरीदाबाद-121004	4246 : 1984	91-08-01
48. 1936870	एस. एल. इंडस्ट्रीज 1304/1, जोआर्डीडोर्मा फेज 4, नागोडा, अहमदाबाद	9283 : 1979	91-02-16
49. 1967982	बीजा पम्प, 5/238, थाडागम रोड जीमीटी पोस्ट कायम्बतूर-641013	9079 : 1989	91-05-01
50. 1987483	बौधरी स्टील्स एंड एलायज लि., 32 क्वे स्ट्रीट, न्यू राखाना, बम्बई-400010	1786 : 1985	91-06-16
51. 1997486	बग्नागोरे जूट फैक्ट्री कं. लि., 4, क्लाइव रॉ., कलकत्ता-700001	2566 : 1984	91-07-16
52. 1998185	वर्धमान केबल्स, 561, फ्रैंड्स कालोनी, गली नं. 8, जी. टी. रोड, शाहदरा, दिल्ली-110032	1554 (भाग 1) : 1988	91-07-16
53. 2007630	रामकुमार एंड संम, 132, कॉटन स्ट्रीट, कलकत्ता-700007	7406 (भाग 1) : 1985	91-08-01

(1)	(2)	(3)	(4)
54. 2009331	रामकुमार एंड सन्स, 133, कांटेन स्ट्रीट, कलकत्ता-700007	7406 (भाग 2):1984	91-08-01
55. 2011217	तमिलनाडु रोलिंग मिल्स प्रा. लि., 218 लिगही पेटी स्ट्रीट, मद्रास-600001	226: 1975	91-08-16
56. 2024529	मोहन जूट बैग मैन्यू. कं. (रायपुर), 14 एंड 15 उर्ला इंड. एस्टेट, रायपुर (म. प्र.)	2580: 1982	91-09-16
57. 2028941	प्रोमोगा फूड एंड न्यूट्रिण्ट्स (प्रा.) लि. प्लॉट नं. 985, टोबीएम कालोनी, अन्ना नगर, वेस्टर्न एक्सप्रेसवे मद्रास-600101	2052: 1979	91-09-16
58. 2054740	मीनल प्लास्टिक इंडस्ट्रीज सी 1/बी, प्लॉट नं. 158, जीआईडीसी एस्टेट बाघोडिया, जिला बड़ोदा	4985: 1988	90-12-16
59. 2125131	जानकी इंडस्ट्रीज, बी-50, नंदभुवन इंडस्ट्रियल एस्टेट महाकाली नेक्स रोड, अंधेरी (पू) बम्बई-400093	996: 1979	91-06-16
60. 2126234	आर. के. डिवाइस प्रा. लि., डा. घ. बाक्स नं. 82, पटियाला-147001	1341: 1981	91-06-16
61. 2133635	फेलकन इलेक्ट्रॉनिक्स (प्रा) लि., खसरा नं. 358, ग्रा-अली, मथुरा रोड झाकधर बजरपुर नई दिल्ली-110044	894: 1977	91-07-16
62. 2134738	माकरी इलेक्ट्रिकल्स इंडस्ट्रीज, प्रा. लि., बुंदावन, कोट्टानांद तिरुवेल्ला (केरल)-689615	3854: 1988	91-07-16
63. 2136338	जय इलेक्ट्रिक इंडस्ट्रीज, यूनिट नं. 24, तुलन केमिकल कपा उंड वेलभाट रोड, गरिगांव (पू) बम्बई-400062	1293: 1988	91-08-16
64. 2138847	लीडर लैम्पस् एंड इलेक्ट्रिकल्स चिहवालूर झाकधर त्रिचूर-680321	418: 1978	91-08-06
65. 2188951	निरुपति लिमिटेडर्स 66/2 मालकिया स्कूल रोड, हावड़ा-711106	7406 (भाग 1): 1984	91-09-16

1	2	3	4
66. 2153641	सुपिन एग्रो केमिकल्स (इंडिया), प्रा. लि. 242/पी, जोध्याईडीसी पनोली जिला-भरुच	8708 : 1978	91-10-01

[सं. के. प्र. वि. 13 : 14]

MINISTRY OF FOOD AND CIVIL SUPPLIES

(Department of Civil Supplies)

BUREAU OF INDIAN STANDARDS

New Delhi, the 30th December, 1991

NOTIFICATION

S.O. 245. In pursuance of Sub-regulation (6) of Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, it is, hereby notified that the Certification Marks Licences, details of which are mentioned in the following Schedule, have expired :

SCHEDULE

Sl. Licence No.	Name of the Licensee	Number of the relevant Indian Standard	Date of expiry
(1)	(2)	(3)	(4)
1 0072429	Kisan Engineering Works Pvt. Ltd. 15, G.T. Road Ghaziabad 201001	IS 226 : 1975	91/08/01
2 0136934	Western India Plywoods Ltd. Hills Road, Baliapatam Cannanore 670010	IS 709 : 1974	91/06/16
3 0173435	Freeweel & Co. S-32-33, Industrial Area, Jalandhar 144004	IS 417(Part 1) : 19	9 0/11/01
4 0287955	Pampasar Distilleries Ltd. Chitwadgi 583211 Hospet, Distt. Bellary	IS 5287 : 1989	91/09/01
5 0532841	Sinnar Bidi Ydyog Ltd. Congress House M.G. Road P.B. No. 142 Bashik 422001	IS 1925 : 1974	91/08/01
6 0617041	Satyakam Diesel Engine Mfg Co., Lalgi Tola, Patna	IS 10001 : 1981	91/06/01
7 0634546	Venkateswara Agro Chemicals & Minerals (P) Ltd. Plot 3-B, (N.P.) Indl. Estate. Ambattur Madras 600098.	IS 4323 : 1980	91/03/16
8 0721844	The India Jute Co. Ltd. 16, Strand Road, Calcutta 700001	IS 2580 : 1982	91/09/16

1	2	3	4
9 0851150	North Bengal Plywood Industries Sevoke Road (3rd Mile) P.O. Ektia Sal, Siliguri Distt. Jalpaiguri	IS 10 (Part 2) : 1976	91/04/01
10 0859974	Panchal Engg. Works 30/31, G.I.D.C. Estate Odhav Road Ahmedabad 382415	IS 5117 : 1969	90/01/01
11 0881361	Mechno Plast 6, Heera Compound Opp. Navjivan Colony Chembur, Bombay 74	IS 694 : 1977	91/08/01
12 0888678	Rama Engineering Works Kashmir Road Batala 143505	IS 1729 : 1979	91/08/16
13 0891465	Steelage Industries Ltd. P.O. Mazagaon Bombay 400010	IS 2878 : 1986	91/09/01
14 0895170	Reliance Jute and Industries Ltd. 9, Brabourne Road Calcutta 700001	IS 3794 : 1966	91/08/16
15 1058440	Assam Bengal Veneer Ind. Pvt. Ltd. 9, Clive Road Calcutta 700001	IS 10 (Part 2) : 1976	91/03/16
16 1076543	Indo-Engineering (Kota) Pvt. Ltd. Gumanpura Kota 324007	IS 398 (Part 1) : 1976	91/01/01
17 1107629	Bkarat Pulverising Mills Pvt. Ltd. "Hexamar House" 1074, Thiruvottiyur High Road Madras 600019	IS 9359 : 1980	91/08/16
18 1159648	Jem Private Ltd. 9, Sonapur Road Calcutta 700088 West Bengal	IS 493 (Part 2) : 1981	84/82/16
19 1183948	Maharashtra Asbestoes Pvt. Ltd. 305-A, Green House Green Street Opp. Old Custom House Bombay 400001	IS 1592 : 1989	91/05/16
20 1215531	Edible Chemical Inds. Plot No. 4, Road No. 3 I.D.A. Balanagar Hyderabad 500037	IS 2558 : 1974	91/07/31
21 121628	Edible Chemical Inds. Plot No. 4, Road No. 3 I.D.A. Balanagar Hyderabad 500037	IS 1693 : 1974	91/08/01

1	2	3	4
22 1227841	Allahabad Spun Pipe Pvt. Ltd. C-32-33, Industrial Estate Naini, Allahabad	IS 458 : 1988	91/08/16
23 1229138	Premier Biscuits Pvt. Ltd. Sy. N.o 35, Bhattarahalli 9th Mile Old Madras Road Bangalore 560049	IS 1011 : 1981	91/09/01
24 1304328	Steel Authority of India Rourkela Steel Plant Rourkela	IS 6240 : 1989	91/09/01
25 1329142	Ram-Pyari Spun Pipes India J-11/66, Nai Basti Ishwar-Gangi Varanasi	IS 458 : 1988	91/08/16
26 1389665	Steel Authority of India Rourkela Steel Plant Rourkela	IS 5986 : 1970	91/09/01
27 1437044	R.S. Industries A-241, 242 (B)-6-D Road Vishwarkarma Indl. Area Jaipur 302013	IS 1977 : 1975	91/08/01
28 1442845	Karthik Tools 657/1, Narsingampatti Village Mclur Taluk Madurai District	IS 2394 : 1977	91/08/16
29 1502938	Balaji Bitumens Gundla Pochampalli Medical To. Ranga Reddy District	IS 73 - 1961	90/01/31
30 1549459	Girishchandra & Co. Nr. Durga Oil Mill Bedeshwar Jamnagar	IS 10325 : 1989	91/04/16
31 1555959	Technogenics 13A, Durga Charan Doctor Road Calcutta 700014	IS 5780 : 1980	91/05/01
32 1605140	Interpack Containers Plot No. 2 Halalpur P.O. Nayapura Bairagarh Road Bhopal 462032	IS 10340 : 1986	91/09/01
33. 1641245	Radiant Engineering Inds. (P) Ltd. Radha Park Bishalakhmitala Baruipur 24-Parganas (W.B.)	IS 8598 : 1987	91/11/16
34. 1663457	Coimbatore Electrical Equipment Pvt. Ltd. Plot 5 Elec. & Electronics Industrial Estate Avanashi Road Civil Aerodrome Post Coimbatore 641014	IS 4064 (Part 1) : 1978	91/23/16

(1)	(2)	(3)	(4)
35. 1687774	Rashoki Control Cables No. 15, Sarvodaya Indl. Estate Opp. Mahakali Caves Road Andheri (East) Bombay 400093	IS 1554 (Part 1) : 1988	91/19/16
36. 1688372	Bendy Udyog Private Ltd. Vill. & P.O. Ansani P.S. Jagacha, Howrah	IS 651 : 1980	91/05/16
37. 1689778	Bengal Lamps Ltd. Old Madras Road (20th km) Bangalore 560049	IS 2418 (Part 1) : 1977	90/05/16
38. 1697878	Pyro Scientific Enterprises D/85, Race Course Dehradun	IS 8808 : 1986	91/06/16
39. 1711543	JD Jones & Co. Ltd. 8 Damesh Sheik Lane Shibpur Howrah 711109	IS 4687 : 1980	91/07/16
40. 1713749	JD Jones & Co. Ltd. 8 Damesh Sheik Lane Shibpur Howrah 711109	IS 9066 : 1979	91/07/16
41. 1727154	Summer-King Enterprises 61, Maliwara Vafst Cinema Road Ghaziabad 201001	IS 2312 : 1967	91/09/01
42. 1750649	K.P. Industries, T. Nagar, Madras	IS 2567 : 1978	91/07/01
43. 1809055	Bhushan Electrical Industries W-192, Gall Chander Shekhar Babarpur, Shahdara Delhi 110032	IS 694 : 1977	91/04/01
44. 1823958	Vallabh Pesticides Mfg. Co. Anand Sojitra Road Post Box 30 Vithal Udyognagar Vallabh Vidya Nagar 388121	IS 2568 : 1978	91/05/16
45. 1827461	IDL Chemicals Ltd. Plot No. D-53-54 Site 4 Sahibabad Industrial Area Ghaziabad (UP)	IS 8887 : 1978	91/06/01
46. 1828968	Shyam Engineering Industries 120-B, Indl. Estate Polyground Indore 452003	IS 10325 : 1989	91/06/01
47. 1857268	Toshiba Home Appliances Plot No. 26 Sector 25, Faridabad 121004	IS 4246 : 1984	91/08/01

(1)	(2)	(3)	(4)
48. 1936870	S.L. Industries 1304/1 GIDC Phase IV Naroda Ahmedabad	IS 9283 : 1979	91/02/16
49. 1967982	Veza Pumps 5/238, Thadagam Rd, GCT Post Coimbatore 641013	IS 9079 : 1989	91/05/01
50. 1987483	Chauddhry Steel & Alloys Ltd. 32 quay Street New Darukhana Bombay 400010	IS 1786 : 1985	91/06/16
51. 1997486	Barnagore Jute Factory Co. Ltd. V, Clive Row Calcutta 700001	IS 2566 : 1984	91/07/16
52. 1998185	Vardhman Cables 561, Friends Colony Gali No. 8, G.T. Road Shahdara Delhi 110032	IS 1554 (Part 1) : 1988	91/07/16
53. 2007630	Ramkumar & Sons 133 Cotton Street Calcutta 700007	IS 7406 (Part 1) : 1984	91/08/01
54. 2009331	Ramkumar & Sons 133 Cotton Street Calcutta 700007	IS 7406 (Part 2) : 1984	91/08/01
55. 2011217	Tamilnadu Rolling Mills Pvt. Ltd. 218, Linghi Chetty Street Madras 600001	IS 226 : 1975	91/08/16
56. 2024529	Mohan Jute Bass Mfg Co. (Raipur) 14 & 15 Urla Indl Estate Raipur (M.P.)	IS 2380 : 1982	91/09/16
57. 2028941	Omega Foods & Nutrients (p) Ltd. Plot No. 985 TVS Colony Anna Nagar Western Extension Madras 600101	IS 2052 : 1979	91/09/16
58. 2054740	Sonal Plastic Industries C 1/B, Plot No. 158 GIDC Estate Waghodia Distt. Baroda	IS 4985 : 1988	90/12/16
59. 2125131	Shanco Industries B-50, Nandabhuvan Indl. Estate Mahakali Caves Road Andheri (East) Bombay 400093	IS 996 : 1979	91/06/16
60. 2126234	R.K. Devices Pvt. Ltd. P.O. Box No. 82 Patiala 147001	IS 1341 : 1981	91/06/16
61. 2133635	Falcon Electronics (P) Ltd. Khasra No. 358 Village Ali Mathura Road P.O. Badarpur New Delhi 110044	IS 694 : 1977	91/07/16

(1)	(2)	(3)	(4)
62. 2134738	Sakri Electrical Industries Pvt. Ltd., Vrindavanam, Kottanad, Tiruvalla (Kerala) 689615	IS 3854 : 1988	91/07/16
63. 2136338	Jay Electric Industries, Unit No. 24, Nutan Chemical Compound, Valbhat Road, Goregaon (E), Bombay 400062	IS 1293 : 1988	91/08/01
64. 2138847	Leader Lamps & Electricals, Cheruvallloor P.O., Trichur-680321	IS 418 : 1978	91/08/01
65. 2148951	Tirupati Laminators, 66/2 Salkia School Road Howrah 711106	IS 7406 (Part 1) : 1984	91/09/16
66. 2153641	Lupin Agro Chemicals (India) Pvt. Ltd., 242/P GIDC, Panoli, Distt. Bharuch	IS 8708 : 1978	91/10/01

[No. CMD/13 : 14]

का.आ. 246.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप-विनियम (6) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन प्रमाणन मुहर लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, उनकी अवधि समाप्त हो गई है :—

अनुसूची

क्र. लाइसेंस सं. सं. (सीएम./एल.)	लाइसेंस स्वीकृति अधिसूचित करने वाले राजपत्र की का.आ.सं. तथा दिनांक		अवधि समाप्ति की तिथि
(1)	(2)	(3)	(4)
1. 0259950	बी.ए.एस. मेटल वर्क्स प्लॉट नं. सी-159 नारायणा एरिया, फेज-I, नई दिल्ली-110028	3564 : 1975	91/06/01
2. 0450637	कामवेनु पैस्टीसाइड्स, कृषि भवन, 1379, भवानी पेठ, पुणे-411002	7122 : 1984	91/09/01
3. 0472243	गाद्री इंडस्ट्रीज, 2094-ई विक्रम नगर, कोल्हापुर	10001 : 1981	91/07/01
4. 0712944	अपर इंडिया स्टील मैनु. फैब्रिकरिंग एंड इंजी. कं. लि., धानधी इंडस्ट्रियल फोकल प्वाइंट, पो.बा. नं. 119, लुधियाना-141001	3749 : 1978	91/08/01
5. 0784464	वर्लेप कामशियल (प्रा.) लि., 135, कैनिंग स्ट्रीट, कलकत्ता-700001	7406 (भाग 1) : 1984	91/07/16

(1)	(2)	(3)	(4)
6. 0955465	यूनियन पैस्टीसाइड्स श्रीराम नगर, विविशा	562 : 1978	91/08/01
7. 0988682	किलवेस्ट प्रा. लि., 7-सी इंडस्ट्रियल एरिया, गोविन्द नगर, भोपाल, 462023	7121 : 1973	91/07/16
8. 1014521	लूना निटर्स, 2 बंकालथाटम, कामराज रोड, बेन्नामपलायम, तिरुपुर-638604	4964 : 1980	90/17/16
9. 1044429	हिलजर्स लि., चार्टर्ड बानू विल्डिंग, कलकत्ता-700001	1322 : 1982	91/03/16
10. 1053430	प्लाईवुड बंगाल, धुपगुड़ी बैटागुड़ी जिला-जलपाईगुड़ी	10 (भाग 2) : 1976	91/03/16
11. 1071129	सुन्ना एंड सुदर्शन, 147, इंडस्ट्रियल एरिया, पो.बा. 629, चंडीगढ़-160002	4246 : 1984	91/04/16
12. 1160532	प्रवर्तक जूट मिल्स लि., 5 स्यानगौरी स्ट्रीट, कलकत्ता-700001	2580 : 1982	91/02/16
13. 1169045	निव्यानन्द इंडस्ट्रियल कारपोरेशन नूनमती, गुवाहाटी-781020	4654 : 1974	86/03/16
14. 1242635	गोल्डन स्पोर्ट्स, डब्ल्यू एक्स 53 बस्ती नाऊ, जालंधर-144002	417 (भाग 2) : 19	90/10/16
15. 1248950	अष्टालक्ष्मी टेक्सटाइल्स सप्लायर्स, 234, त्रिची रोड, सुलूर पोस्ट, कोयम्बतूर-641402	1718 : 1988	91/12/01
16. 1264039	रासी निटर्स, 2/7 कांगूनगर, मेन रोड, तिरुपुर-638602	4964 : 1980	91/01/16
17. 1294553	जयश्री वुड प्रोडक्ट्स, डा. रूपार्थ साइडिंग, डुमन्डुमा, जिला-डिब्रूगढ़, आसाम	10 (भाग 2) : 1976	91/01/01
18. 1314634	कोयम्बतूर प्रीमियर कारपोरेशन प्रा. लि., 268, अविनाशी रोड, कोयम्बतूर-641018	6595 : 1980	91/06/16
19. 1317741	सैटाडोर फोम, 11 ए/236, अशोक नगर, कानपुर-208012	1741 : 1960	91/06/16

(1)	(2)	(3)	(4)
20. 1324233	मारवल इंजीनियरिंग इंडस्ट्रीज, अम्मानकुलम रोड, पी एन पलायम, कोयम्बतूर-641037	6595 : 1988	91/07/16
21. 1361946	कामधेनु पैस्टीसाइड्स, कृषि भवन, 1379, भवानी पेठ, पुणे-411007	1507 : 1977	91/09/01
22. 1407439	प्रकाश पुलवराइजिंग मिल्स, पुराना इंडस्ट्रियल एरिया, (रेलवे गुड्स.शेड के सामने) पो.बा. नं. 20, अलवर-301001	3903 : 1984	91/07/01
23. 1428144	बी एस वार्ड इंजी. वर्क्स, जी.टी. रोड, फगवाड़ा-144401	1726 (भाग 2) : 1974	91/07/01
24. 1429853	बी.एस.वार्ड. इंजी. वर्क्स, जो.टो. रोड, फगवाड़ा-144401	1726(भाग 7/अनु. 2) 1974	91/07/01
25. 1433440	स्वाति कैमीकल्स प्रा.लि., नं. 66, माउन्ट पूनामल्ली रोड, मानवक्कम ग्राम, श्रीपेरम्बुदुर तालुक, चेलगपट्टु	8249 : 1976	91/07/16
26. 1531844	कामधेनु पैस्टीसाइड्स, कृषि भवन, 1379 भवानी पेठ, पुणे-41002	2569 : 1978	91/09/01
27. 1572656	प्रवीण प्लास्टिक इंडस्ट्रीज, 28, जे.एन. मुखर्जी रोड, भंडाघाट, हावड़ा	10840 : 1986	91/06/16
28. 1581253	प्रकाश स्पन पाइप्स, ग्राम-हाशिमपुर, डा. महूरपुर जौनपुर	458 : 1988	91/07/16
29. 1584865	एक्सेस्ट सिलिडर्स प्रा. लि., ग्रा.-सीलकुई, जिला-देहरादून उत्तर प्रदेश	3196 : 1982	91/07/16
30. 1611640	लक्ष्मी टिन वर्क्स ओ/एस माजीवाडी गेट, प्लॉट नं. 159/60, जूनागढ़-362001	10325 : 1989	90/10/16
31. 1626451	एशिएटिक प्लास्टिक्स, जालान ट्रस्ट कंपाउन्ड, 220, नासकारपाड़ा रोड, हावड़ा	10840 : 1986	90/12/01
32. 1705952	निमी कैम्स,-8-9-32 दूसरी लाइन, नेहरू नगर, गुंदूर-522001	7884 : 1978	91/07/03

(1)	(2)	(3)	(4)
33. 1723752	यूनीकोल पेस्टीसाइड्स (प्रा.) लि., 17/1, बी एंड सी इंड. एस्टेट, बिदिशा	562 : 1978	91/08/16
34. 1761154	कोको गारमेन्ट्स, 11-ए. एलीमन्ट्री स्कूल, दूसरी स्ट्रीट, कारुवमपलायम, तिरुपुर-638604	4964 : 1980	88/12/01
35. 1784873	कर्नाटक ग्रायल रिफाइनरीज, शामपुर रोड, अशोक नगर एक्सटेंशन, के. जी. हल्ली, अरेबिक कालिज पोस्ट, बंगलौर	2664 : 1980	91/01/31
36. 1792165	लुईट एशियन प्लास्टिक प्रा. लि., बोंडा नारंगी गुवाहाटी-781026	4985 : 1988	91/02/16
37. 1804045	ए. बी. एम. कैमोक्ल्स, 98, इंडस्ट्रियल एरिया, फेज-2, चंडीगढ़-160002	7532 : 1974	91/03/16
38. 1829667	कलकत्ता स्पन पाइप्स एंड इंड. डा. जुबेरिया ग्रा.-मुहगाचा 24 परगना	458 : 1988	91/06/01
39. 1833658	राजस्थान वैक्स प्रोडक्ट्स इंडस्ट्री (रजि.) डी-17 मीरा मार्ग, बेनीपार्क, जयपुर-6	1746 : 1985	91/06/01
40. 1951155	श्रीराम रेफ्रिजेशन इंडस्ट्रीज लि., बालानगर, टाउनशिप, हैदराबाद-500037	11170 : 1895	91/08/01
41. 1852056	हेमा पेस्टीसाइड्स, विजरोल रोड, (रेलवे क्रासिंग के पास) बड़ीत, जिला-मेरठ	1307 : 1988	91/08/01
42. 1861663	श्री प्रानन्द एग्रो इंडस्ट्रीज, लोधा पेट्रोल पम्प के पास, ग्रासिन्हाशा, धार रोड, इंदौर	9020 : 1979	91/08/16
43. 1895579	वैक्सपाल इंडस्ट्रीज लि.. मितरहाउम, 71 गणेश चन्द्र ऐवेन्यू, कलकत्ता-700013	719 : 1974	90-11-01
44. 1986491	इम्पीरियल लैमिनेट्स, 125 काटनस्ट्रीट, कलकत्ता-700007	7406 (भाग 1) : 1984	91-06-16

(1)	(2)	(3)	(4)
45. 1986883	कलकत्ता कैमिकेटर्स, 2 मिलान तरणि, पारनश्री कलकत्ता-700060	7406 (भाग 2) : 1984	91-06-16
46. 1988690	बंगाल टूल्स लिमिटेड, दुर्गापुर जिला—वर्धमान, हसरे एवेन्यू, ग्रापीनाथपुर, प. बंगाल	8598 : 1987	91-07-16
47. 2002923	किसान एग्री कैमीकल्स, पो. बा. नं. 248, कोर्ट रोड, मुजफ्फर नगर 251001	11997 : 1987	91-07-16
48. 2015528	कानपुर प्लास्टिक प्रा. लि. डी-19 पनकी इंड. एरिया, कानपुर-208022	7406 (भाग 1) : 1984	91-08-16
49. 2015528	कानपुर प्लास्टिक प्रा. लि. डी-19 पनकी इंड. एरिया, कानपुर 208022	7406 (भाग 1) : 1984	91-08-16
50. 2015629	इंडियन कोटिंग एंड लेमिनेटिंग कारपो., 31 फैक्ट्री एरिया, कानपुर-208012	7406 (भाग 2) : 1984	91-08-16
51. 2103525	केरल सिरे मिक्स लि. (केओलिन डिवीजन) पो. बा. नं. 2, कुवारा, विक्कॉन 691501	505 : 1978	91-04-16
52. 2108535	निमी कैम्स, 8-9-32, दूसरी लेन, नेहरू नगर, गुंटूर-522001	4956 : 1977	91-04-16
53. 2111322	के.सी. एण्ड कं. आलोरी गेट के बाहर, जोधपुर	3315 : 1974	91-05-01
54. 2114429	ए.के. एन्टरप्राइजेज, 507/50 जैसोर रोड, कलकत्ता-700074	5490 (भाग 1) : 1977	91/05/16
55. 2118942	मेहतपुर पैकेजिंग प्रा. लि. 128, इंड एरिया, मेहतपुर 128, इंड एरिया, मेहतपुर जिला—उना (हि.प्र.)	7406 (भाग 1) : 1984	91/06/16
56. 2123228	गेंजिस वाटर प्रूफ वर्क्स (प्रा.) लि., 14, बेबूलाल रोड, कलकत्ता-700014	7406 (भाग 2) : 1984	91/06/16
57. 2123329	गेंजिस वाटर प्रूफ वर्क्स (प्रा.) लि. 14 बेबूलाल रोड, कलकत्ता-700014	7406 (भाग 1) : 1984	91/06/16
58. 2130225	चन्दर नगर कैमीकल्स एंड मिनेरल्स (प्रा.) लि., चन्दर नगर ग्राम—सिलोकरा, गुडगांव-122001	1965 : 1972	91/07/01

[सं. के. प्रति/13/14]

एन. श्रीनिवासन, अपर महाप्रदेशक

S.O. 246.—In pursuance of Sub-regulation (6) of Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, it is, hereby notified that the Certification Marks Licences, details of which are mentioned in the following Schedule, have expired :

SCHEDULE

Sl. No.	Licence No.	Name of the licensee	Number of the relevant Indian Standard	Date of expiry
1		2	3	4
1.	0259950	B.A.S. Metal Works Plot No. C-159 Naraina Industrial Area, Phase I New Delhi-110028.	IS 3564 : 1975	91-06-01
2.	0450637	Kamdhenu Pesticides Krishi Bhavan 1379, Bhawani Peth Poona-411002.	IS 7122 : 1984	91-09-01
3.	0472243	Gadre Industries 2094-E, Vikram Nagar, Kolhapur.	I : 10001 : 1981	91-07-01
4.	0712944	Upper India Steel Manufacturing & Engg. Co. Ltd. Dhandri Industrial Focal Point P.O. Box No. 119 Ludhiana-141010.	IS : 3749 : 1978	91-08-01
5.	0784464	Burlap Commercial (P) Ltd. 135, Canning St. Calcutta-700001.	IS : 7406 (Part 1) : 1984	91-07-16
6.	0955465	Union Pesticides Shri Ram Nagar, Vidisha.	IS : 562 : 1978	91-09-01
7.	0988682	Kilpest Pvt. Ltd. 7-C, Industrial Area, Govind Pura Bhopal-462023.	IS : 7121 : 1978	91-07-16
8.	1014521	Luna Knitters 2, Vaikalhattam Kamaraj Road, Thonnampalayam Tirupur-638604.	IS : 4964 : 1980	90-12-16
9.	1044409	Heilgers Ltd. Chartered Banu Building Calcutta-700001.	IS : 1322 : 1982	91-03-16
10.	1053430	Plywood Bengal Dhupguri, Baitaguri Distt. Jalpaiguri.	IS : 10 (Part 2) : 1976	91-03-16
11.	1071129	Sundra & Sudarshan 147, Industrial Area Post Box 629 Chandigarh-160002.	IS : 4246 : 1984	91-04-16
12.	1160532	Prabartak Jute Mills Ltd. 5, Syanagouge Street Calcutta-700001.	IS : 2580 : 1982	91-02-16

1	2	3	4
13. 1169045	Nityananda Industrial Corporation Noonmati, Gauhati-781020.	IS : 4654 : 1974	86-03-16
14. 1242635	Golden Sports WX 53, Basti Nau Jalandhar-144002.	IS : 417 (Part 2) : 19	90-10-16
15. 1249950	Astalakshmi Textile Supplies 234, Trichy Road, Suler Post Coimbatore-416402.	IS : 1718 : 1988	90-12-01
16. 1264039	Rasi Knitters 2/7, Kongu Nagar Main Road Tirupur-638602.	IS : 4964 : 1980	91-01-16
17. 1294553	Jayashree Wood Products P.O. Rupai Siding Doom-Dooma Distt. Dibrugarh. Assam.	IS : 10 (Part 2) : 1976	91-04-01
18. 1314634	Coimbatore Premier Corp. Pvt. Ltd. 262, Avanashi Road, Coimbatore-641018.	IS : 6595 : 1980	91-06-16
19. 1317741	Matador Foam 11A/236 Ashok Nagar. Kanpur-208012.	IS : 1741 : 1960	91-06-16
20. 1324233	Marvel Engineering Industries 4/23, Amman-Kulam Road, P.N. Palayam, Coimbatore-641037.	IS 6595 : 1980	91-07-16
21. 1361946	Kamdhenu Pesticides Krishi Bhavan 1379, Bhawani Peth Poona-411002.	IS 1507 : 1977	91-09-01
22. 1407439	Prakash Pulvesing Mills 1, Old Industrial Area (Opp. Railway Goods Shed P.B. No. 20 Alwar-301001	IS 3903 : 1984	91-07-01
23. 1428144	B.S.Y. Engg. Works G.T. Road, Phagwara-144401	IS : 1726 (Part 2) : 1974	91-07-01
24. 1429853	B.S.Y. Engg. Works G.T. Road, Phagwara-144401	IS 1726 (Part 7/Sec. 2) 1974	91-07-01
25. 1433440	Swathy Chemicals Pvt. Ltd. No. 66, Mount Poonamallee Road Manapakkam Village Sriperumbudur Taluk, Chinslaput Dt.	IS 8249 : 1976	91-07-16
26. 1531844	Kamdhenu Pesticides Krishi Bhavan 1379, Bhawani Peth, Poona-411002	IS 2569 : 1978	91-09-01
27. 1572656	Praveen Plastic Industries 28, J.N. Mukherjee Road Bandhaghat, Howrah-6	IS 10840 : 1986	91-06-16
28. 1581253	Prakash Spun Pipes Village Hisampur P O. Mahroopu, Jaunpur	IS 458 : 1988	91-07-16

1	2	3	4
29. 1584865	Everest Cylinders Pvt. Ltd. Village Selakui Distt. Dehradun, U.P.	IS : 3196 : 1982	91-07-16
30. 1611640	Laxmi Tin Works O/S Majewadi Gate Plot No. 159/60 Junagarh 362001.	IS 10325 : 1989	90-10-16
31. 1626451	Asiatic Plastiques Seth Sooragmall Jalan Trust Compound 220, Naskarpara Road, Howrah	IS 10840 : 1986	90-12-01
32. 1705952	Nimi Chems 8-9-32, 2nd Line Nehru Nagar Guntur-522001	IS : 7884 : 1978	91-07-01
33. 1723752	Unikil Pesticides (P) Limited 17/1, B & C, Indl. Estate Vidisha	IS : 562 : 1978	91-08-16
34. 1761154	Coco Garments 11-A(1), Elementary School Second Street, Karuvam Palayam Tirupur-638604	IS : 4964 : 1980	88-12-01
35. 1784873	Karnataka Oil Refineries Shampur Road, Ashok Nagar Extension K.G. Halli Arabic College Post Bangalore	IS : 2664 : 1980	91-01-31
36. 1792165	Luit Asian Plastics Pvt Ltd Bonda Narangi Guwahati-781026	IS : 4985 : 1988	91-02-16
37. 1804045	AVM Chemicals 98, Industrial Area, Phase II Chandigarh-160002.	IS : 7532 : 1974	91-03-16
38. 1829667	Calcutta Spun Pipes and Inds. P.O. Jugberia Vill. Muragacha 24-Parganas.	IS : 458 : 1988	91-06-01
39. 1833658	Rajasthan Wax Products Industry (Regd.) D-17, Meera Marg Bani Park, Jaipur-6	IS : 1746 : 1985	91-06-01
40. 1851155	Shriram Refrigeration Industries Ltd. Balanagar Township Hyderabad-500037	IS : 11170 : 1985	91-08-01
41. 1852056	Heema Pesticides Bijrol Road (Near Railway Crossing) Baraut Distt. Meerut.	IS : 1307 : 1988	91-08-01
42. 1861663	Shri Anand Agro Industries Near Lodha Petrol Pump Village Sinhasha, Dhar Road Indore.	IS : 9020 : 1979	91-08-16

1	2	3	4
43. 1895579	Waxpal Industries Ltd. 9, Mitter House 71, Ganesh Chandra Avenue Calcutta-700013.	IS 719 : 1974	90-11-01
44. 1986481	Imperial Laminators 125 Cotton Street Calcutta-700007.	IS : 7406 (Part 1) : 1984	91-06-16
45. 1986683	2, Calcutta Fabricators 2-Milan Sarani Parnasree Calcutta-700060.	IS : 7406 (Part 2) : 1984	91-06-16
46. 1998690	Bengal Tools Limited Durgapur 1 Distt. Burdwan Hasser Avenue, Gopinathpur W. Bengal.	IS : 8598 : 1987	91-07-16
47. 2002923	Kissan Agro Chemicals P.B. No. 248. Court Road Muzaffarnagar-251001.	IS : 11997 : 1987	91-07-16
48. 2015528	Kanpur Plastipack Pvt. Ltd. D-19, Panki Indl. Area Kanpur-208022.	IS : 7406 (Part 1) : 1984	91-08-16
49. 2015528	Kanpur Plastipack Pvt. Ltd. D-19, Panki Indl. Area Kanpur-208022.	IS : 7406 (Part 1) : 1984	91-08-16
50. 2015629	Indian Coating & Laminating Corpn. 31, Factory Area Kanpur 208012.	IS : 7406 (Part 2) : 1984	91-08-16
51. 2103525	The Kerala Ceramics Ltd. (Kaolin Division) Post Box No. 2 Kundara Quilon-691501.	IS : 505 : 1978	91-04-16
52. 2108535	Nimi Chems 8-9-32, 2nd Line Nehru Nagar, Guntur-522001.	IS : 4956 : 1977	91-04-16
53. 2111322	Kay Cee & Co. Outside Jalori Gate Jodhpur.	IS : 3315 : 1974	91-05-01
54. 2114429	A.K. Enterprises 507/50 Jessore Road Calcutta-700074.	IS 5490 (Part 1) : 1977	91-05-16
55. 2118942	Mehatpur Pacakases Pt. Ltd. 128 Indl Area Mehatpur Distt Una (HP).	IS 7496 (Part 1) : 1984	91-06-01
56. 2123228	Ganges Waterproof Works (P) Ltd. 14, Bechulal Road, Calcutta-700014.	IS 7406 (Part 2) : 1986	91-06-16
57. 2123329	Ganges Waterproof Works (P) Ltd. 14, Bechulal Road, Calcutta-700014.	IS : 7406 (Part 1) : 1984	91-06-16

1	2	3	4
58. 2130225	Chander Nagar Chemicals & Minerals (P) Ltd. Chander Nagar Village Silokra Gurgaon-122001	IS 1965 : 1972	91-07-01

[No. CMD/13 : 14]

का.आ. 247:— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड 'ख' के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया है/किये गये हैं।

अनुसूची

क्र.सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तारीख
(1)	(2)	(3)	(4)
1.	आई एस : 179—1977	संशोधन सं. 3 फरवरी 1991	1991-02-28
2.	आई एस : 549—1974	„ „ 4, जनवरी 1991	1991-01-31
3.	आई एस : 1203—1978	„ „ 3, अप्रैल 1991	1991-04-20
4.	आई एस : 4046 (भाग 2)—1981	„ „ 1 अप्रैल, 1991	1991-04-30
5.	आई एस : 5630—1970	„ „ 1, जनवरी 1991	1991-01-31
6.	आई एस : 6203—1984	„ „ 3 अगस्त 1991	1991-08-31
7.	आई एस : 7218—1974	„ „ 4, जनवरी 1991	1991-01-31
8.	आई एस : 7218—1974	„ „ 5, अगस्त 1991	1991-08-31
9.	आई एस : 7253—1974	„ „ 3, जनवरी 1991	1991-01-31
10.	आई एस : 7253—1974	„ „ 4, अगस्त 1991	1991-08-31
11.	आई एस : 9389 (भाग 1)—1979	„ „ 1, जनवरी 1991	1991-01-31
12.	आई एस : 1694 (भाग 2)—1980	„ „ 1, जनवरी 1991	1991-01-31
13.	आई एस : 11934—1987	„ „ 1, जनवरी 1991	1991-01-31
14.	आई एस : 1936—1987	„ „ 1, अप्रैल 1991	1991-04-30
15.	आई एस : 11937—1987	„ „ 1, जनवरी 1991	1991-01-31
16.	आई एस : 12592 (भाग 1)—1988	„ „ 1, नवम्बर 1990	1990-11-30

इन मानकों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुरशाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों कलकत्ता, बम्बई, मद्रास और चंडीगढ़ तथा शाखा कार्यालयों बंगलोर, भोपाल, भुवनेश्वर, कोयंबटूर, फरीदाबाद, गाजियाबाद, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, लखनऊ, पटना और त्रिवेन्द्रम में बिश्री के लिए उपलब्ध है।

[सं. के. प्रवि/13:5]

एम. श्री निवासन, अपर महा निदेशक

S.O. 247.—In pursuance of clause (b) of Sub Rule (1) of Rule 7 of Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards, hereby notifies that amendment(s) to the Indian Standard(s) given in the schedule hereto annexed has/have been issued.

SCHEDULE

Sl. No. and year of the Indian Standard	No. and date of the amendment	Date from which the amendment shall have effect
1	2	3
No. amendment		4
1. IS : 179—1977	Amdt No. 3, Feb 1991	1991-02-28
2. IS : 549—1974	Amdt No. 4, Jan 1991	1991-01-31
3. IS : 1203—1978	Amdt No. 3, April 1991	1991-04-30
4. IS : 4046 (Part 1)—1981	Amdt No. 1, April 1991	1991-04-30
5. IS : 5630—1970	Amdt No. 1, Jan 1991	1991-01-31
6. IS : 6303—1984	Amdt No. 3, Aug 1991	1991-08-31
7. IS : 7218—1974	Amdt No. 4, Jan 1991	1991-01-31
8. IS : 7218—1974	Amdt No. 5, Aug 1991	1991-08-31
9. IS : 7253—1974	Amdt No. 3, Jan 1991	1991-01-31
10. IS : 7253—1974	Amdt No. 4, Aug 1991	1991-08-31
11. IS : 9389 (Part 1)—1979	Amdt No. 1, Jan 1991	191-01-31
12. IS : 9694 (Part 2)—1980	Amdt No. 1, Jan 1991	1991-01-31
13. IS : 11934—1987	Amdt No. 1, Jan 1991	1991-01-31
14. IS : 11936—1987	Amdt No. 1, April 1991	1991-04-30
15. IS : 11937—1987	Amdt No. 1, Jan 1991	1991-01-31
16. IS : 12592 (Part 1)—1988	Amdt No. 1, Nov 1990	1990-11-30

Copies of these Amendments are available for sale with the Bureau of Indian Standard, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: Bombay, Calcutta, Chandigarh, and Madras and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Guwahati, Hyderabad, Jaipur, Patna and Trivandrum.

[No. CMD/13 : 5]

M. SRINIVASAN, Addl. Director General

नागरिक पूर्ति और सार्वजनिक वितरण

मंत्रालय

नई दिल्ली, 3 जनवरी, 1992

का.आ. 248.—अग्रिम संविदा (विनियमन) अधिनियम, 1952 (1952 का 74) की धारा 3 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्री एम.पी. रेगे, निदेशक (वस्तुएं) को 29 नवम्बर, 1991 (अपरान्ह) से 16 दिसम्बर, 1991 (पूर्वान्ह) तक आयोग की सदस्य ओमती विमला कुमार की छुट्टी के दौरान उनके मौजूदा कार्यों के अतिरिक्त वायदा बाजार आयोग, बम्बई के सदस्य के रूप में नियुक्त करती है।

[मि.सं. ए-17011/1/88-प्रशा.-II]

भरत प्रसाद, अवर सचिव

MINISTRY OF CIVIL SUPPLIES & PUBLIC DISTRIBUTION

New Delhi, the 3rd January, 1992

S.O. 248.—In exercise of the powers conferred by Sub-section (2) of Section 3 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby appoints Shri M. P. Rega, Director (Commodities) as a Member of the Forward Markets Commission, Bombay, vice Smt. Vimala Kumar, Member, during her leave period from 29th November, 1991 (AN) to 16th December, 1991 (FN) in addition to his present duties.

[File No. A-17011/1/88-Estt.II]

BHARAT PRASAD, Under Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 2 जनवरी, 1992

का.आ. 249.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिये प्रयोग) नियम 10 के उपनियम (4) के अनुसरण में सूचना और प्रसारण

मंत्रालय के निम्नलिखित कार्यालय को, जिनके कर्मचारी-
बन्ध ने हिंदी का कार्यासाधक ज्ञान प्राप्त कर लिया है,
संक्षिप्त सूचित करती है:—

केन्द्रीय कार्यक्रम निर्माण केन्द्र,
दूरदर्शन, खेजगांव, नई दिल्ली-4

[संख्या ई-11011/37/91-हिंदी]

जगदीश सेठ, निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 2nd January, 1992

S.O. 249.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notify the following office of the Ministry of Information and Broadcasting, the Staff whereof have acquired the working knowledge of Hindi:—

Central Production Centre,
Doordarshan, Khel Gaon,
New Delhi.

[No. E-11011/37/91-Hindi]
IAGDISH SETH, Director ((O.L.))

जन-भूतल परिवहन मंत्रालय

(नौवहन पत्र)

नई दिल्ली, 8 जनवरी, 1992

का.आ. 250—वाणिज्य नौवहन अधिनियम 1958 (1958 का 44) की धारा 361 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त अधिनियम के भाग के तहत 22-7-90 को जन और नौकाओं को डूई होने तथा कोचीन पत्तन में कोचीन आयल टर्मिनल में अथवा आसपास लगी आग जो कथित तौर पर एण्ड टी दादामाई नौरोजी, (भारतीय नौवहन निगम का भारतीय जहाज) द्वारा लिये गये प्रदूषण के कारण लगी, की औपचारिक जांच-पड़ताल करने के लिये एर्नाकुलम के मुख्य न्यायिक मजिस्ट्रेट को शक्ति प्रदान करती है।

[का.सं. एस आर-12011/7/90-एमए]

के० पदमनाभाचार, अवसर सचिव

MINISTRY OF SURFACE TRANSPORT

(Shipping Wing)

New Delhi, the 8th January, 1992

S. O. 250.—In exercise of the powers conferred by Section 361 of the Merchant Shipping Act, 1958 (44 of 1958) the Central Government hereby empowers the Chief Judicial Magistrate of Ernakulam to make a formal investigation under Part XII of the said Act into the loss of life and Boats and the cause of fire in or around the Cochin Oil Terminal in the Port of Cochin allegedly to have been caused due to pollution by M. J. Dadabhai Naoroji (an Indian Ship belonging to Shipping Corporation of India) on 22-7-1990.

[File No. SR-12011/7/90-MA]

K. PADMANABHACAR, Under Secy.

91 GI/92—4.

श्रम मंत्रालय

नई दिल्ली, 27 दिसम्बर, 1991

का.आ. 251—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ौदा के प्रबंधकों के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं० 2, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-91 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 27th December, 1991

S.O. 251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Bank of Baroda and their workmen, which was received by the Central Government, on the 26th December, 1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT BOMBAY

PRESENT:

Shri P. D. Apshankar, Presiding Officer.

Reference No. CGIT-2/47 of 1986

PARTIES:

Employers in relation to the management of Bank of Baroda.

AND

Their Workmen.

APPEARANCES:

For the Employer: 1. Shri K. T. Shah, Manager, Maroli Bazar Branch 2. Shri R. L. Thaker, Regional Manager.

For the Workmen: Shri A. N. Khatri, Representative.

INDUSTRY: Banking.

STATE: Gujarat.

Bombay, the 27th November, 1991

AWARD

The Central Government by their Order No. L-12012/295/85-D.II(A) dated 20-11-1986 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947.

"Whether the authorities of Bank of Baroda, Maroli Bazar Branch, are justified in terminating the services of Smt. Dahiben Narsingh with effect from 1-12-84? If not, to what relief is Smt. Dahiben Narsingh entitled?"

2. The case of the workman, i.e. lady Smt. Dahiben Narsingh, as disclosed from the statement of claim (Ex. W-2) filed by her in person, in short, is thus:—

The said lady was serving in the Bank of Baroda at Maroli Bazar Branch in Bulsar District for about 16 years prior to termination of her service, as a permanent part-time employee, and was working as a Sweeper. She was working honestly and sincerely. However, the Manager of the said branch of the Bank all of a sudden orally terminated her service from 1-12-1984. Thereafter she approached

the Branch Manager of the Bank, and requested for her reinstatement in service. However, the Bank did not consider her request. Hence, she approached the Assistant Labour Commissioner (C), Ahmedabad, through her Union in the matter. As the conciliation proceedings ended in failure, the Central Government made the reference, as above. According to the said lady, the action of the Bank management in terminating her services is illegal and invalid for the following reasons:

She was a permanent part-time employee of the Bank for 16 years prior to the termination of her service, and she was not a Job Worker. From 1-7-1983 her services were regularised by the Bank and she was getting 1/3 of the scale wages applicable to the full time worker. She was also allowed to contribute to the Provident Fund every month. She had never made any request to the management for the discontinuation of her service on account of her ill health. She was physically fit to discharge her duty efficiently. She had not attained the superannuation age. She had not affixed her thumb mark on any letter of resignation from the Bank's service. The handwriting of the resignation letter is not of any person known to her, and she had not asked any person to draft any such letter of resignation. The acceptance of the alleged letter of resignation by the Bank was never communicated to her in writing. The alleged letter of the resignation, and the letter of acceptance of resignation by the Bank have been prepared by the same person known to the Bank. An employee desirous of leaving service would himself resign from service, instead of requesting the management to discontinue his service. The services of the said lady were terminated by the Bank with a view to absorb another lady by name S. S. Halpati. The lady concerned i.e. Smt. Dahiben Narsingh is depending upon herself only for her maintenance, and as such, she would not have resigned from the Bank's service. The Bank has terminated her service, and it is not that she herself resigned from the Bank's service. The said lady therefore prayed that this Tribunal should set aside the order of termination passed by the Bank, and should direct the Bank to reinstate her in service with full back wages of the post of permanent part-time Sweeper with continuity of service.

3. The Officer-in-Charge of the post of the Regional Manager of the Bank by his written statement (Ex. M-3) opposed the said claim of the lady Smt. Dahiben Narsingh, and in substance contended thus:—

She was a part-time job worker at the Maroli Bazar Branch of the Bank, and she was working as a Sweeper. Her services were regularised as a part-time employee w.e.f. 1-7-1983. Soon after her services were regularised, she was not keeping good health. She was constantly under medical treatment, as a result of which she was not in a position to devote her due attention and care to the work entrusted to her. Realising that she would not be in a position to continue in the service in view of her ill health, she by her letter of resignation dated 1-8-1984 informed the Bank that she was not keeping good health, that she was under the treatment of the Primary Health Centre at Maroli Bazar that she was an old lady aged about 61 years, and she would not like to continue any further in the service of the Bank. However, as a substitute was not readily available to take her place, the Bank requested her to continue in service for some period, and as soon as a substitute would be available, she was to be relieved from the Bank's service. Accordingly she was relieved from the Bank's service on 1st December, 1984, and the Bank on 15-12-1984 relieving her from service w.e.f. 1-12-1984. About a month thereafter, she approached the Branch Manager with a request to reinstate her in service. It seems that the said lady had again thought over her letter of resignation, and at the instance of some other persons, tried for her reinstatement in service. However, as she was relieved from service on her own request because of

her ill health, her request for reinstatement was not considered favourable by the Bank management. Thereafter she raised the industrial dispute before the Assistant Labour Commissioner (C), and as conciliation proceedings ended in failure, the Central Government made the reference as above.

4. The Bank management further contended thus:—

The contention of the said lady that she was a permanent part-time employee of the Bank is not true and correct. It is also not true that she was working sincerely and diligently. It is not true that the said lady was physically fit to discharge her duty efficiently. It is not true that her services were terminated with a view to absorb another lady by name Smt. S. S. Halpati. The lady in question is not entitled to reinstatement in service. Therefore the bank management lastly prayed for the rejection of the claim of that lady, and to uphold their action in terminating the services of that lady because of her resignation from the Bank's service.

5. The Issues framed at Ex. 7 are:—

- (1) Whether the worklady Smt. Dahiben Narsingh herself resigned her post by her letter dated 1-8-1984 or whether her services were terminated by the Bank by the letter dated 15-12-1984?
- (2) Whether the authorities of Bank of Baroda, Maroli Bazar Branch, are justified in terminating the services of Smt. Dahiben Narsingh with effect from 1-12-1984?
- (3) If not, to what relief is Smt. Dahiben Narsingh entitled?
- (4) What Award?

6. My findings on the said Issues are:—

- (1) Her services were terminated by the Bank.
- (2) No.
- (3) As per Award below.
- (4) As per below.

REASONS

Issue Nos. 1 and 2:

7. The lady concerned, viz., Smt. Dahiben Narsingh filed her affidavit in support of her case at Exh. W/16, and filed the affidavits of two more witnesses on her behalf, viz. Ashok N. Khatri, the Representative of the Bank of Baroda Employees' Union, and Amrutlal Patel, a Peon working in the Bank of Baroda at Maroli Bazar Branch. All these three witnesses were cross examined on behalf of the Bank management. No oral evidence was led on behalf of the Bank management.

8. The lady Smt. Dahiben in substance stated in her affidavit (Ex. W/16) thus:—

"She did not affix her thumb mark on the so-called resignation letter dated 1-8-1984 willingly with her consent and after understanding the contents thereof (As such that lady admitted the thumb mark on the alleged letter of resignation as hers). The contents of the alleged letter of resignation are false and fabricated. She was not under the medical treatment of Primary Health Centre, Maroli Bazar, as on 1-8-1984, and did not submit any medical certificate to the Manager of the Bank. The so-called letter of acceptance of the letter of resignation dated 15-12-1984 was never received by her from the Bank. As the service in the Bank was the only source of her income for her maintenance, it was not likely for her to tender her resignation after full understanding."

In her cross examination she stated that on the next day of Rakhi Purnima day she was told by the Bank not to attend for the work thenceforth. She further stated in her cross examination that she herself did not resign the post in the Bank, and that her services were terminated by the Bank by force. Therefore, in view of the case of the said lady that she did not voluntarily resign the service of the Bank and that a document was obtained from her in that

respect only with her thumb mark thereon, and in view of the evidence of that lady to that effect, the Bank management could have led evidence to the effect that the alleged letter of resignation is a genuine document, and that she voluntarily submitted that letter of resignation to the Bank after knowing the contents thereof and willingly having affixed her thumb mark below that letter. However, as stated above, absolutely no oral evidence has been led by the Bank management in support of their case, and in the absence of any evidence on the part of the Bank management, and in view of the evidence on oath of the said lady which is supported by other circumstances as below I see no reason to disbelieve the case and the evidence of the said lady, I find that she herself did not resign from the service in the Bank, but that the Bank management had terminated her services from 1-12-1984.

9. The alleged original letter of resignation dated 1-8-1984 with the thumb mark of the said lady Dahiben below it and addressed to the Manager of the Bank of Baroda, Maroli Bazar Branch, is at Exh. M/11. This letter stated that :—

"I am not keeping good health at present. I am under the treatment of Primary Health Centre, Maroli Bazar. At present I am an old lady of 61 years, and unable to work in your Bank in such condition. So you find out another sweeper in my place and appoint her, to which I have no objection. I have written this letter of my own will and with knowledge and understanding."

Now, in case the said lady really wanted to resign from the service of the Bank, she would have only stated and mentioned about the fact of her resignation from the Bank's service, and would not have added the further sentence requesting the Bank to find out another Sweeper in her place and to appoint her, and that she had no objection for it. These statements appearing in that alleged letter of resignation are inconsistent with the letter of resignation. The said lady has mentioned her age as 61 years in that letter. It is not known how the Bank management allowed her to continue in service after the completion of her 60 years of age, as the age of retirement for the class III and class IV Bank employees is 60 years. It is therefore unlikely that the said lady herself would have mentioned her age as 61 years in that letter of resignation. The said original letter of alleged resignation has been attested by the Manager/Accountant of the Maroli Bazar Branch of the Bank. As such the Bank should have examined the said Officer to prove that the said lady had voluntarily and willingly submitted that alleged letter of resignation dated 1-8-1984, and that only her thumb mark was not obtained by the Bank under any influence from her. However, no such evidence has been placed by the Bank on record. I, therefore, do not accept the contents of that letter.

10. Ashok Khatri, the 1st witness of the said lady, in substance stated in his affidavit (Ex. W/9) that at the instance of the rival union, the Bank management removed the lady Dahiben from the Bank's service, as they had to engage another lady by name Shantiben in the Bank's service as a Sweeper. The other witness Amrutlal Patel also stated to the same effect in his affidavit (Ex. W/12). The medical certificate dated 16-1-1987 issued by the Civil Surgeon Navasari, states that Smt. Dahiben, i.e. the lady in question was examined by him on that day, and that she looked clinically and physically about 55 years old. As such, as on the date of the alleged resignation i.e. 1-8-1984 that lady was aged 52 years only. According to that lady, she was depending upon herself for her maintenance. It is therefore quite unlikely that a lady aged about 52 years who is not depending for her maintenance on any other person but is depending upon herself for her maintenance, would voluntarily resign the Bank's service at her age of 52 years only.

11. The medical certificate dated 17-8-1984 issued by the Medical Officer, Leprosy Control Unit, Navasari, Distt. Valsad stated that the lady Dahiben was not a patient of infectious type of case, and hence there was no harm to her fellow employees or her neighbours. According to the Bank management, the said lady resigned because of her continued ill-health. However, the abovesaid certificate shows that her illness was not of such a serious nature that she should resign from the Bank's service. As per the medical certificate issued by the Medical Officer, Leprosy Control Unit, Navasari, District Valsad, dated 13-9-1985, the said lady was then aged 45 years only.

As such, she was aged 44 years in 1984, and therefore it is unlikely that she herself would desire of discontinuing her service in the Bank, when she could have served for about 15 to 16 years more.

12. It is seen from the record that after the services of the said lady were terminated from 1-12-1984, she approached the Asst. Labour Commissioner for intervention in the matter only within two to three months thereafter. In case she would have voluntarily resigned from the Bank's service, she would not have approached the Asst. Labour Commissioner for intervention in the matter, and would not have pursued the present reference. According to the Bank management, at the instance of some other persons, the said lady again thought over the question of her reinstatement in service, and hence she approached the Asst. Labour Commissioner. However, this contention of the Bank management is not acceptable to me. The alleged letter of resignation is dated 1-8-1984. According to the Bank management, they had requested that lady to continue in service till another substitute is available, and as such that lady worked in the Bank upto 1-12-1984. In my opinion, in case that lady had really a genuine desire to discontinue serving with the Bank, she would not have worked with the Bank for 4 months more. This indicates that that lady had not voluntarily submitted the letter of resignation.

13. The Bank employees including the said lady are governed by the provisions of the Sastri Award. As per Para 522(2) of that Award, a permanent employee desirous of leaving the service of the Bank shall give one month's notice in writing to the Manager. As per para 522(3), if any permanent employee leaves the service of the Bank without giving notice, he shall be liable to pay the Bank one month's pay and allowances. Admittedly in the present case, the said lady had not given one month's notice of her desire to leave the Bank's service, and the Bank had also not recovered one month's pay and allowances in lieu of the notice from that lady. In case the lady had already resigned from the service of the Bank without any notice, the Bank would have certainly recovered one month's pay and allowances from her. However, it was not done so.

14. Para 522(1) of the Sastri Award states that :—

"In case not involving disciplinary action for misconduct and subject to clause (6) below, the employment of a permanent employee may be terminated by three month's notice or on payment of three months' pay and allowances in lieu of notice....."

In the present case, the said lady was not given any notice by the Bank manager before terminating her services, and she was also not paid three months' pay in lieu of the notice period.

15. Therefore, for the reasons and the circumstances discussed above, I find that the said lady had not submitted any letter of resignation voluntarily and willingly, and she herself had not resigned from the Bank's service, but that the Bank management had terminated her service with effect from 1-12-1984, and that too without any sufficient and good reason, and without following the proper procedure. As such that termination of her service by the Bank management is not just, proper and valid, and hence, she is entitled to reinstatement in service with back wages of the post of a permanent part time Sweeper with effect from 1-12-1984 with continuity of service.

16. Issue Nos. 1, 2 and 3 are found accordingly.

17. The following Award is, therefore, passed.

AWARD

18. The Authorities of the Bank of Baroda, Maroli Bazar Branch, were not justified in terminating the services of Smt. Dahiben Narsinh with effect from 1-12-1984.

19. The Bank management is hereby directed to reinstate the said lady in service immediately on the post held by her prior to 1-12-1984 and to pay her the back wages of that post with effect from 1-12-1984, with continuity of service, and other service benefits, if any.

20. The parties to bear their own costs of this reference.

P. D. APSHANKAR, Presiding Officer
[No. L-12012/295/85-D.II(A)]

का.प्र. 252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारियों के बीच प्रनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकरण, नं. 1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-91 को प्राप्त हुआ था।

S.O. 252.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Bombay as shown in the Annexure in the Industrial dispute between the employers in relation to the Mgt. of Indian Overseas Bank and their workmen, which was received by the Central Government on the 26-12-1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, BOMBAY

(PRESIDING OFFICER : JUSTICE S. N. KHATRI

REFERENCE NO. CGIT-11 OF 1990

PARTIES :

Employers in relation to the management of Indian Overseas Bank.

AND

Their workmen.

APPEARANCES :

For the Management.—Shri R. Srinivasan, Representative
For the Workmen.—Workmen present in person.

INDUSTRY : Banking STATE : Maharashtra
Bombay, the 17th day of December, 1991

AWARD (PART-I)

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under section 10 of the Industrial Disputes Act, 1947.

“Whether the action of the management of Indian Overseas Bank in dismissing from service Shri S. M. Sonawane, Clerk attached to Seacroft Hotel Branch is justified ? If not, to what relief is the workman concerned entitled ?”

This disposes of the preliminary issue whether the domestic inquiry is vitiated for breach of any principle of Natural Justice or for any other reason.

2. S. M. Sonawane (hereafter ‘the workman’) who belongs to a Scheduled Caste joined the Indian Overseas Bank (hereafter ‘the Bank’ or ‘the Management’) as Shroff/Typist in February 1979. At all material times he was serving as such at the Sea Rock Hotel Extension Counter attached to the Bandra Branch of the Bank. Two charge sheets dated 17-5-84 and 30-10-85 were issued to him by the Disciplinary Authority Parthasarathy for defalcation of Bank’s/Customer’s Funds. In all six items were involved. It was alleged that the workman had committed the misconduct in league with one K. Rangaswamy who was the Officer-in-charge of the Extension Counter and the former’s two other colleagues S. C. Vazirani and S. Rehmatoolah. Common proceedings were taken against the present workman Sonawane, Vazirani and Rehmatoolah, while Rangaswami was proceeded against separately, probably because he belonged to the Officer Cadre. Parthasarathy conducted the proceedings upto the stage of inspection of documents; thereafter one Venkatraman took over. Four witnesses were examined by the Management and Rangaswami was one of them. It appears that initially a letter was lodged with the C.B.I. by the Management against Rangaswami alone : See Ex. M-1 dated 12-12-83. By another letter dated 28-12-83 (Ex. M2) the names of the three workmen were communicated later by the Management to the C.B.I. who were in charge of the investigation as suspected collaborators of Rangaswami. It appears that after conducting

the investigation the C.B.I. decided to prosecute Rangaswami alone and none of the three workmen. The present workman was suspended by an order dated 4-1-84 (Ex. W-1) with immediate effect on the ground that steps had been taken to prosecute him.

3. By his report dated 30-12-84 (Ex. M-15), Venkatraman who was the Enquiry as well as Disciplinary Authority, came to the below mentioned findings and held the workman and his two associates guilty of gross misconduct in terms of para 19.5(d) (wilful damage or attempt to cause damage to the property of the bank or any of its customers); 19.5(j) (doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss) and 19.5(1) abetment or instigation of any of the acts or omissions above-mentioned, of the Bipartite Settlement dated 14-12-66.

Findings :

1. In many cases, the charge sheeted employees M/s. S. C. Vazirani, S. M. Sonawane and S. S. Rehmatoolah have abetted the financial misdemeanors of the Officer-in-charge, Shri K. Rangaswami (MW-1).
2. In certain instances, they have colluded with the Officer-in-charge, Shri K. Rangaswami and indulged in questionable practices.
3. The case had also joined hands in misappropriating Banks/customers money and have caused wrongful loss to the bank and gain to themselves.
4. The case had also indulged in falsifications of records and/or made unauthenticated entries.
5. The CSEs have flouted the prescribed systems and procedures to the detriment of banks interest.
6. The CSEs had destroyed the paid instruments/withdrawal slips/records in collusion with the Officer-in-Charge, Shri K. Rangaswami, with a view to erase the evidence.
7. The CSEs had indulged in manipulation of figures/records to show that the transactions are in order and also to cover up all their financial misdeeds.
8. The CSEs had fraudulently withdrawn huge amounts from bank/customers account and/or shared amongst them.
9. The CSEs had misrepresented the true position of the Extension Counter as to balancing, position of the accounts etc. to the bank/its inspectors/auditors.
10. They had made unauthorised transfers from one account to another regardless of the consequences and liabilities of the bank to the parties.”

4. The Enquiry Officer/Disciplinary Authority issued a notice on 30-12-87 (Ex. M-15) itself, accompanied by his report, to the workman to show cause as to why punishment of dismissal should not be awarded to him. After giving him a personal hearing, the Disciplinary Authority by his order dated 12-2-88 (Ex. M-19) dismissed the workman from service under para 19.6(a) of the Bipartite Settlement. The appeal preferred by the Workman was dismissed by the Appellate Authority (Raghwan MW-1), Assistant General Manager by his order dated 18-8-88 (Ex. M-25).

5. In his statement of claim and rejoinder the Workman contends that the domestic inquiry stands vitiated on account of the following breaches of the principles of natural justice and other material flaws :

I. Gross prejudice has been caused to the Workman in effectively defending himself by—

- (a) the Management’s failure to furnish him copies of certain material documents, inspite of the Workman’s repeated requests.
- (b) the Management’s adducing evidence of Rangaswami against the Workman, although he was the main culprit.
- (c) the Management taking out common proceedings against the Workman and his two associates and re-

cording common omnibus findings against the trip and Rangaswamy without considering separately the materials incriminating the present workman.

- (d) transfer of the domestic inquiry by Parthasarathy to Venkatraman without any legal authority.
- (e) Venkatraman's conducting the inquiry, ignoring that he himself was the disciplinary authority and had conducted the departmental investigation and domestic inquiry against Rangaswamy.
- (f) in awarding the extreme penalty of dismissal, the disciplinary authority's giving weight to allegations which did not form part of charges framed against the Workman.
- (g) the appellate authority's deciding the appeal without applying his mind to the facts of the case.
- (h) the disciplinary authority's basing the findings of guilt on mere assumptions/presumptions, which are not supported by any legal evidence.

11. The suspension order is bad, inasmuch as the ground on which it is founded, namely that steps had been taken to prosecute him in terms of para 17.3(a) were never taken. At any rate, the Bank failed to pay him subsistence allowance at full rate on completion of 1 year from the date of suspension.

6. The Management have resisted the Workman's contentions by filing a detailed written statement. According to them the domestic inquiry was conducted in full compliance with the provisions of the Bipartite Settlement and the principles of natural justice. They deny that the inquiry is rendered bad by any flaw in the procedure. They have also sought liberty to adduce evidence on merits of the charges against the Workman, if the Tribunal for any reason holds the domestic inquiry bad.

7. The Workman has filed his own affidavit in support of his case. He has been cross-examined by the Management. In rebuttal, the Management have examined Raghwan Ex. MW-1 and Venkatraman Ex. MW-2. They have been cross-examined by the Workman's representative. Both sides have filed their written submissions and also supplemented them orally.

8. The Workman has made a strong grievance about the Disciplinary Authority's refusal to make him available copies of the C.B.I. final report recommending prosecution of Rangaswamy alone, the charges framed against him, the seizure panchnamas under which incriminating cheques and other papers were seized from his residence, the Bank's order sanctioning prosecution of Rangaswamy alone and the statement made by him in his own domestic inquiry. The workman waits that in absence of these materials he was seriously handicapped in cross-examining Rangaswamy who was not only the star witness for the Management in the common proceedings against the trio but also the prime mover in the alleged misdeeds. The stand of the Management is that the Disciplinary Authority was bound to furnish copies of only those documents, which were relied upon or used by them against the Workman as evidence, and that because none of the aforesaid documents were so used the Workman was not entitled to their copies. It is also urged that the report made by the C.B.I. to the Bank after investigation in confidential and as such the Workman is not entitled to its copy.

9. In the present case, Rangaswamy was officer-in-charge of the Extension Counter, whereas the Workman and his two associates belonged to the clerical grade directly under him. Rangaswamy has admitted in his cross-examination in the domestic inquiry that in all 41 charges were framed against himself for misappropriation and falsification of account and that he had surrendered about 100 cheques to Shri Sahay of the C.B.I. before the latter started search of his residence. He has also admitted that Venkatraman who has conducted the enquiry against the trio and passed dismissal orders against him, was the Enquiry Officer in his case also. On his own showing Rangaswamy is a senior, experienced Officer. Inter alia he had attended 3-4 training projects also for officers. Obviously he was the star witness for the Management. It is difficult to appreciate how the Workman could have

effectively cross-examined him, without knowing the precise role assigned by the Management to him in the joint misadventures and its gravity. Thus the Workman could have known only after going through the proceedings against Rangaswamy. The documents referred to in the opening part of para 8 supra, are very material and relevant for an effective that fair defence of the workman. It is difficult to appreciate the Management's stand that for effective cross-examination of Rangaswamy, it was not necessary for the Workman to know the charges framed against Rangaswamy by the Management, and his defence and the reason why the Bank had throughout it fit to press Rangaswamy's prosecution to the exclusion of the Workman and his two associates.

10. It has come in Rangaswamy's cross-examination that as on the date of his evidence, the domestic inquiry had still not been concluded and that he was not knowing his fate at that time. I am not making these observations to show that Rangaswamy was not a competent witness against the Workman, being his accomplice or was otherwise unreliable. He was certainly a competent witness; the question of his credibility will crop up only at the time of assessing the evidence on merits. My endeavour at the moment is to highlight that in the exceptional special circumstances of the case, the Workman was very seriously handicapped in cross-examining Rangaswamy effectively in absence of the documents under consideration. The Workman had made his request for production of these documents before the Enquiry Officer at the earliest opportunity. Technically it must have ideally suited the convenience of the Management to ignore those documents for establishing the guilt of the Workman, probably because they incriminated Rangaswamy exclusively or substantially, and the Workman peripherally. Indeed, interests of justice would have been best served had Rangaswamy also been a party to the common proceedings. At any rate, all the proceedings of the domestic inquiry against him (including the documents specifically requested for by the Workman) should have been made available to him.

11. The Management rely on a decision of the Supreme Court reported in AIR 1988 SC 117 Chandramani Tiwari Vs. Union of India for the proposition that the Management are not bound to furnish copies of documents to the delinquent employee, unless those are used by the Enquiry Officer against the delinquent. I am afraid this is not the true legal position. In my humble opinion the correct legal position is stated by the apex Court in para 9 of the judgement. I can do no better than reproduce the same.

"It is now well settled that if copies of relevant and material documents including the statement of witnesses recorded in the preliminary enquiry or during investigation are not supplied to the delinquent officer facing the enquiry and if such documents are relied in holding the charges framed against the officer, the enquiry would be vitiated for the violation of principles of natural justice. Similarly, if the statement of witnesses recorded during the investigation of a criminal case or in the preliminary enquiry is not supplied to the delinquent officer that would amount to denial of opportunity of effective cross-examination. It is difficult to comprehend exhaustively the facts and circumstances which may lead to violation of principles of natural justice or denial of reasonable opportunity of defence. This question must be determined on the facts and circumstances of each case. While considering this question it has to be borne in mind that a delinquent officer is entitled to have copies of material and relevant documents only which may include the copy of statement of witnesses recorded during the investigation or preliminary enquiry or the copy of any other document which may have been relied in support of the charges. If a document has no bearing on the charges or if it is not relied by the enquiry officer to support the charges, or if such document or material was not necessary for the cross-examination of witnesses during the enquiry, the officer cannot insist upon the supply of copies of such documents, as the absence of copy of such document will not prejudice the delinquent officer. The decision of the question whether a document is material or not will depend upon the facts and circumstances of each case."

12. It is thus clear that the Management cannot wriggle out of their obligation to furnish copies of relevant and material documents, simply by taking the stance that they are not relying on the same for proving the guilt of the delinquent. If the documents are relevant and material—even from the point of view of the defence, the Management must produce the same; else the delinquent might be handicapped in effectively cross-examining the witness. The question whether a particular document is relevant and material and whether the delinquent has been prejudiced depends on the individual facts of each case. In my opinion, the case cited by the Management helps the Workman more.

13. The facts of the present case clearly show that the documents sought by the Workman were very much relevant and material for the legitimate defence of the Workman. The Management's refusal to furnish them to him has deprived him of his right of cross-examination and resulted in serious prejudice to him. The domestic inquiry stands vitiated on this count alone.

14. It is an admitted position that common proceedings were taken against the Workman and his two colleagues with the consent of the Union who were representing them. This would in effect mean that the evidence admitted in the proceedings documentary as well as oral would be read as against all the three. There is nothing wrong in this procedure. Nor do I find anything remiss in the Enquiry Officer's preparing one report only, covering the cases of all the three. So far so good. The gravamen of the Workman's grievance now is that the Enquiry Officer ought to have considered the evidence incriminating each delinquent separately and on such assessment specifically recorded findings on the items of misconduct proved against each separately. Instead of doing so he has clubbed together the entire evidence on a particular incident and recorded an omnibus finding against the delinquents charged as a whole. This has according to the Workman resulted in palpable injustice to him, in that a rolled up finding has been recovered against him in absence of a charge to that effect—that he had taken part in destruction of instruments/accounts. Similarly because the precise role played by him was not separated from the roles of the other delinquents while deciding the quantum of punishment, either by the Disciplinary Authority or the Appellate the extreme penalty of dismissal stands awarded to him.

15. I find considerable force in the submission of the Workman. I have gone through the proceedings of the Enquiry. An analysis of the two charge sheets framed against him (Ex. M-3, dated 17-5-84 and M-5 dated 30-10-85) discloses that in the sole item dated 6-5-82 covering the first charge sheet (Ex. M-3) and the five items dated 18-9-81, 16-9-81, 12-10-81, 4-1-82 and 7-10-81 in the second all the four culprits are involved in just one item dated 16-9-81, and the present Workman and Rangaswamy are involved in all the six items. In addition, Rahmetoola and Vazirani are involved separately in just one item—Rahmetoola in the item 6-5-82 and Vazirani in the item dated 4-1-82 stated in other words, Rahmetoola is not involved in four items dated 18-9-81, 12-10-81, 4-1-82 and 7-10-81, while Vazirani is not involved in four items dated 6-5-82, 18-9-81, 12-10-81 and 7-10-81. What I am endeavouring to stress is that it is only Rangaswamy who is said to be the workman's accomplice in all the six items and yet he has not been proceeded against in common with the workman. The Workman's other collaborators—Vazirani and Rahmetoola—figure with him in just one item each. The chargesheets framed against Rangaswamy, Vazirani and Rahmetoola are not available in the record of the domestic inquiry. The Disciplinary Authority has recorded rolled up findings against all the delinquents, which are reproduced in para 3 supra. These do create the impression that he is treating the gravity of delinquency of all on par. The findings against Rangaswamy were not at all available to the workmen during the domestic proceedings; indeed as Rangaswamy admits in his cross-examination, his fate was still hanging in the balance at that crucial time. The Disciplinary Authority admits in his cross-examination before this Tribunal that there was no charge framed against the Workman for destruction of instruments/records. Yet the tenor of the original findings and the Appellate order clearly indicate that this charge was treated as established as against him also. All these circumstances establish serious prejudice to the Workman, resulting from the common omnibus findings recorded against the foursome, and acted upon by both Authorities.

16. Admittedly subsistence allowance was paid to the Workman @ 50% only upto the date of his dismissal on 12-2-88. The Management rely on clause 5 of the Bipartite Settlement dated 8-9-83. The relevant provision is :

"(a) Where the investigation is not entrusted to or taken up by an outside agency (i.e. Police/CBI), Subsistence Allowance will be payable at the following rates :

1. For the first 3 months 1/3 of the pay and allowances which the workman would have got but for the suspension.
2. Thereafter 1/2 of the pay and allowance.
3. After one year, full pay and allowances if the enquiry is not delayed for reasons attributable to the concerned workman or any of his representatives. Where the investigation is done by an outside agency and the said agency has come to the conclusion not to prosecute the employee, full pay and allowances will be payable after 6 months from the date of receipt of Report of such agency, or one year after suspension, whichever is later and in the event the enquiry is not delayed for reasons attributable to the workman or any of his representative."

17. Venkatraman MW-1 has stated in para 8 of his affidavit-deposition that the report of the CBI refusing prosecution of the Workman was dated 2-5-86. The suspension order was passed on 4-1-84. Thus according to this witness, subsistence allowance at full rate would have become payable with effect from 1-11-86, provided the inquiry was not delayed for reasons attributable to the Workman or his representative. The witness adds in para 3 of his deposition that he had fixed the case for recording of evidence for 1-9-86. However it was adjourned at the request of the Workman's representative who was busy conducting negotiations with the Bank. The matter ultimately came to be fixed for 11-3-87 for hearing on a day to day basis. He has placed on record a letter dated 30-8-86, whereby the Workman sought an adjournment on the ground that the President of their Union was held up at Delhi for some meeting with the Finance Ministry. The matter was accordingly adjourned sine die by Venkatraman's letter of the same day.

18. It is true that the matter was adjourned on 30-8-86, because of a request on behalf of the Workman. However it is an admitted position that the recording of evidence started on 11-3-87 and continued from day to day till 14-3-87 without break. On 14-3-87 Venkatraman gave two weeks time to the Workman for filing his summing up. As the representative was busy in negotiations the summing up was filed on 27-8-87 (Ex. W-4). Thereafter the Disciplinary Authority issued show cause notice to the Workman on 30-12-87. Reply was promptly filed on 12-1-88; personal hearing took place 9 days later on 21-1-88, followed by further submissions on 27-1-88. The final order of dismissal came off on 12-2-88.

19. There is nothing on the record except the word of Venkatraman that the matter could not be fixed before 11-3-87 for effective hearing, because the Workman's representative was busy in negotiations. Even assuming that this was true, the Workman more than made up the delay by seeing to it that evidence of as many as four witnesses was over in a matter of just four consecutive days. This is a rare occurrence in domestic inquiries, particularly those involving serious and unusual allegations as in the present case. Then the Disciplinary Authority took about 4 months to prepare his report before issuing show cause notice on 30-12-87. Considering the circumstances as a whole, the Workman or his representative cannot be held responsible for any delay. After all, as President of the Union, it was the legitimate duty of the representative to attend to negotiations with the Finance Ministry or with Bank's Association.

20. As the delay is not attributable to the Workman or his representative, he was entitled to get subsistence allowance at full rate from 1-11-86. Admittedly he was paid this allowance at half rate only for more than 15 months after 1-11-86. In 1986 L.L.C. 879 Fakirbhai Vs. Presiding Officer and 1 other, the Supreme Court has held that failure to

pay subsistence allowance to a Workman as per rules in a domestic inquiry, amounts to depriving him of his right of effective defence. The Management's failure to pay subsistence allowance at full rate after 1-11-86, renders the domestic inquiry against the Workman bad.

21. I am however not impressed by the Workman's case that the suspension order dated 4-1-84 (Ex. W-1) was ab initio void. For this submission, he relies on a recital in the order that "steps have been taken to prosecute you in terms of para 17.3(a) of the Bipartite Settlement", which recital, according to him, is basically untrue. He states that the CBI had examined him merely as a witness and not as an accused and that the Bank had not taken any steps to prosecute him. I do not agree. It is true that in their first letter dated 12-12-83 (Ex. M-1) to the CBI, grievance was made against Rangaswamy alone. However this letter was followed by another dated 28-12-83 (Ex. M-2), in which suspicion was expressed against the Workman and his two associates. Under section 161 of the code of criminal procedure, any person, which term includes not only a witness but an accused or a suspect also, can be examined by the Investigating Agency. There is no merit in the Workman's plea that he was not examined as an accused. Simply because the CBI did not eventually find substance in the allegations against the Workman and his associates had launched prosecution against Rangaswamy alone, it does not automatically follow that the letter dated 28-12-83 does not amount to a step on the part of the Management to prosecute the Workman. Without delating further, I hold that the suspension order is not ab initio void.

22. The Workman has challenged the fairness of the appeal proceedings on the ground that the appellate authority has not applied its mind to the facts of the case independently and ekayed the order of dismissal on the prompting of the Disciplinary Authority. He also points out that the Authority has passed the order inter alia, On the assumption that the Workman had indulged in destruction of documents/records, although there is no charge to this effect against the Workman. I am not impressed by the first prong of the attack; however, as I have already stated in para 15 supra, there is substance in the second part. There is one more circumstance brought on the record, which reflects adversely on the fairness of the inquiry. Venkatraman MW-2 (Disciplinary Authority) admits in para 16 of his cross-examination that of the three Workmen, he forwarded the appeal of the present Workman to Raghwan MW-1 and of Vazirani and Rahmatooli to one Amrose. It is difficult to endorse the rationale, much less the fairness, of this course. In the first place the domestic inquiry in re Rangaswamy who was the culprit, was held separately and the three Workmen who were subordinates of Rangaswamy and who so roles were obviously less serious were proceeded against jointly and denied access to the proceedings against Rangaswamy. The Enquiry Officer in both inquiries was however one and the same person Venkatraman. We do not know who dealt with Rangaswamy's appeal, if he had at all filed one. But then even amongst the three Workmen, the appeals were sent to two different officers. And what is Venkatraman's justification for adopting this course. He wanted to divide equally the workload of the appellate authorities and promote administrative convenience. Something difficult to swallow. The way in which the proceedings have been handed does not inspire confidence in the fairness of the Management. It has also caused prejudice to the present Workmen.

23. It is true that the domestic inquiry was initiated by Parthasarathy and after the chargesheet was framed, it was taken over by Venkatraman. It is not proved that this transfer of the proceedings was done under orders of any higher authority. It is a bit unusual for one disciplinary authority to transfer the proceedings before himself to other co-officer at his own level. However in the present case, the Workman's does not appear to have ever objected to Venkatraman's taking over the inquiry and conducting it. In the circumstances I do not think it is open to the workman to make grievance on this count at this stage.

24. I also feel that the objection of the Workman that the Disciplinary and Appellate Authorities had acted on presumptions/assumptions can be better dealt with, while assessing the evidence on merits rather than at this stage. I am, therefore, not dealing with this question here.

25. Eventually I hold that the domestic inquiry is vitiated for the reasons stated above. As the Management have prayed in their written statement at the earliest opportunity for permission to lead evidence on merits of the charges, they will be entitled to do so. The Workman will also be entitled to lead evidence in rebuttal. I fix up the case on 15-1-92 for further directions. Costs so far shall abide the final result.

S. N. KHATRI, Presiding Officer

[No. L-12012/389/89-D 11(A)]

का.प्र. 253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुगुण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार की 26-12-91 को प्राप्त हुआ था।

S. O. 253.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Punjab National Bank and their workmen, which was received by the Central Government on 26-12-1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated this the 6th day of December, 1991

PRESENT:

Shri M. B. Vishwanath, B.Sc., LL.B, Presiding Officer, Central Reference No. 14 of 1990

I PARTY:

Shri N. K. Maheswara Kumar, No. 22, 'C' Street 2nd Cross Road, Gopalapuram, Magati Road Bangalore-560023.

(By Sri M. G. Anjana Murthy)

Vs.

II PARTY:

The Regional Manager, Punjab National Bank, Regional Office, 28, M. G. Road, Bangalore-560001.

(By Sri N. Mohan Sundaram)

AWARD

In this reference No. L-12012/272/89-D.IIA, dated 22nd February, 1990, made by the Hon'ble Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the point for adjudication as per Schedule to reference is:—

"Whether the action of the management of Punjab National Bank in terminating the services of Sri N. K. Maheswara Kumar w.e.f. 8-1-1986 was justified? If not to what relief the workman is entitled to?"

2. In the Claim petition it is contended:—

The I Party workman was appointed by the II Party as per order dated 27-5-1985. The I Party workman was appointed as a subordinate staff. The I Party was discharged his duties to the satisfaction of the official superiors. The services of the I Party were illegally terminated with effect from 8-1-1986 by the Manager, Peenya Industrial Estate Branch Bangalore. The I Party then was drawing salary of Rs. 895 per month. The I Party—workman was suffering

from nervous strain, fever and general weakness with effect from 13-8-1985. So he could not report for duty with effect from 14-8-1985. He was shifted to his native place Bellary for treatment. The I Party workman sent leave applications requesting the Manager for sanction of medical leave. The II Party has not replied to any of his letters. The I Party received a letter dated 15-10-85 calling upon the I Party to report for duty on or before 28-10-85. The I Party sent explanation dated 22-10-85 why he was forced to be on leave from 14-8-85. In spite of this the II Party has terminated the services of the I Party workman by its letter dated 8-1-86. The action of the II Party in terminating the services of the I Party is illegal. It amounts to retrenchment. The II Party has victimised the I Party. The II Party has committed unfair labour practice. The I Party workman is entitled to reinstatement with backwages.

3 In the Counter Statement (ii) is contended :—

It is true that the I Party was appointed by II Party and the I Party joined services of II Party on 12-6-85 as Peon. The I Party was appointed on probation for a period of 6 months. The I Party frequently absented himself for his duties from 16-6-85 to 22-6-85, 5-8-85, to 8-8-85 from 14-8-85 to 7-1-86. The letter issued by post to the I Party to give reasons for his absence was returned unserved. The II Party sent another letter dated 15-10-85 by registered post directing the I Party to report for duty on or before 28-10-85. This letter has been received by the I Party. But the I Party did not report for duty. The I Party assured that he would report for duty on 4-11-85. Even on this date he did not report for duty. Again the II Party addressed a letter to the I Party. In view of the continued absence of the I Party and refusal to report for duty the services of the I Party who was on probation, were terminated by the II Party. The action of the II Party in terminating the services of the I Party is according to law. The reference has to be rejected.

4. This Tribunal has not framed separate issues since the point for determination is covered by the Schedule to the reference. See order sheet dated 12-10-90.

5. On behalf of the II Party MW-1 Eswarappa Sunkad, Manager of the II Party—Bank has been examined on behalf of the I Party workman he has got himself examined and closed his case.

6. Exhibit M-1 is the order of appointment given to the I Party. As per condition number 2 the I Party was on probation for a period of six months. Condition No. 2 further says that the services of the I Party workman would be terminated at the sole discretion of the Bank even before the expiry of the probationary period without assigning any reason but with one month's notice or on payment of month's pay or allowance in the lieu thereof. The I Party workman joined duty on 12-6-85, as per history sheet exhibit M-3. His services were terminated on 8-1-86. The six months period of probation from 12-6-85 was over on 12-12-1985. In the written arguments (no oral arguments were submitted) it is stated that on 8-1-86, when the I Party's services were terminated the I Party was no longer on probation since his probation period had come to an end. It is well established that the probation period will be continued till a reasonable period. In the instant case, it cannot be said that the date from 12-12-85 to 8-1-1986 was too long a period and that the I Party workman was not on probation.

7. The reason for the termination of the services of the I Party was that he continued to be absent, even without submitting leave applications. The I Party has stated that he sent leave application and doctor's certificates. He has stated in his evidence that he sent three doctors certificates. His further case is, as stated in his evidence, that he remained absent as he was ill and he had gone to his native place Bellary for treatment. The case of the II Party is that he did not send leave applications and he used to go away without getting the leave sanctioned.

8. In the cross-examination the I Party has stated that from 14-8-85 to January, 1986 he was staying at Bellary.

But it is very significant to note that I Party admits that he has not given Bellary address to II Party Bank.

9. Exhibit M-6 is the copy of the letter sent by the II Party Bank to the I Party's address at Bangalore. This is dated 15-10-1985. This has been received by the I Party at Bangalore as per postal acknowledgement exhibit M-7. The fact that the I Party workman has received the original of exhibit M-6 at Bangalore clearly shows that the I Party was not at Bellary.

10. The I Party has produced certificates of posting exhibit W-1 to W-4 to show that he sent leave applications to the II Party along with doctors certificate. The I Party, it is curious to note, has not produced the copies of the leave applications or the doctors certificates. So far as the certificate of posting exhibit W-1 is concerned it sheds lucid light on the conduct of the I Party. I have carefully seen the postal seals in the certificate of posting exhibit W-1. The date of posting is 23-1-1988. This date has nothing to do with the period he alleges he was ill. Exhibits W1 to W4 appear to be cooked up. At any rate, they do not help the I Party workman. When the II Party stated as per Exhibit M-6 (M-7 postal acknowledgement) that the I Party should report to duty on or before 28-10-1985, the I Party in view of the attitude of the II Party in recalling the I Party for duty, would have been vigilant and would have maintained the copies of the leave applications and the doctors certificates. To repeat, it is difficult to believe that the I Party sent leave applications and the doctors certificates to the II Party.

11. The I Party has stated in cross-examination from 14-8-85 to January, 1986 he was staying at Bellary. Exhibit M-8 is the copy of the letter sent by II Party by registered post to the I Party on 6-12-1985, giving the I Party one more chance to return to duty on or before 13-12-85. This has been received by the I Party at Bangalore as per exhibit M-9 postal acknowledgement. This also disproves the say of I Party that he was at Bellary. If the I Party were at Bellary he could not have received exhibit M-8 at Bangalore.

12 Exhibit M-3 is the history sheet of the I Party workman. Exhibit M-3(a) is the Deccan Herald cutting dated 21-1-86. Exhibit M-3(a) clearly shows that during the probation that the I Party workman was at Bangalore employed in Auditva Finance and Investment (India) Ltd., Bangalore and that he was charged with misappropriation of money. Exhibit M-3(a) demolishes the defence of I Party workman. By no stretch of language could it be said that Exhibit M-3(a) relates to Smt. Rajeswari, the wife of the I Party and not to the I Party.

13. At the time of terminating the services of the I Party, the II Party as per the terms of the appointment order has paid one month's salary and this has been encashed by the I Party. This is not a case of retrenchment or victimisation. In view of the continued absence of the I Party the II Party has rightly terminated the services as per condition No. 2 in the appointment order Exhibit M1. Our Hon'ble High Court has been pleased to uphold in 1985 Lab. I.C. 833/ Karnataka (Jithendra vs. Management of Bharath Earth Movers) the termination of the services during probation period as per the terms of the appointment order.

14. For the aforesaid reasons, I am of the opinion that the order of termination of the services of the I Party as per Exhibit M-10 by the II Party is legal. The II Party has correctly acted in accordance with the condition No. 2 in the appointment order Ex. M-1.

15. All other documents and evidence not referred to by me are not relevant. In any case they do not alter my conclusions reached above.

16. In the result, I pass the following :—

AWARD

Award passed rejecting the reference.

Dictated to the Secretary, taken down by him, got typed and corrected by me.

M. B. VISHWANATH, Presiding Officer.
[No. L-12012/272/89-D.II(A)]

का.भा. 254.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निम्नलिखित के प्रबंधकों के संबंध में निम्नलिखितों और उनके कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-91 को प्राप्त हुआ था।

S.O. 254.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation to the MGI of Syndicate Bank and their workmen, which was received by the Central Government on the 26-12-91.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(108)/1987

PARTIES :

Employers in relation to the management of Syndicate Bank, Ahmedabad and their workman, Kumari Bharti Rani Gupta, House No. 13/59, Nayapara, P.O. and District Raipur (M.P.)

APPEARANCES :

For Workman—Shri S. D. Phadke.

For Management—Shri Shyam Pd. Rao.

INDUSTRY : Banking DISTRICT : Raipur (MP)

AWARD

Dated, the 13th December, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/458/86-D.II (A) dated 15-7-1987, for adjudication of the following dispute :—

“Whether the action of the management of Syndicate Bank in relation to their Raipur Branch in terminating the services of Kum. Bharti Rani Gupta w.e.f. 14-6-85 is justified? If not, to what relief the concerned workman is entitled?”

2. Kumari Bharti Rani Gupta was appointed on the post of Clerk with effect from 22-3-1985. Initially she was appointed for a period of one month, but subsequently the period of appointment was extended from time to time and she worked till 14-6-85. Thereafter her services were terminated.

3. The workman says that after her termination from service the following persons were appointed :—

1. Ku. Anita Dakate
2. Sri S. K. Sharma
3. Sri Atanu Lahiri
4. Sum. Harshita Kotak
5. Ku. Sarla Gurbunani etc.

She further says that she was appointed against a regular vacancy. Even though posts are available and there is 91 GI/92—5.

work the workman was deliberately devoid of her job by appointing different people for short term so that they can avoid various legal dues which amounts to unfair labour practice. She is, therefore, entitled to be reinstated with full back wages and regularisation etc.

4. The management says that the workman was appointed for a specified period and thereafter her services were terminated as no longer required. Her claim is misconceived. Reference is untenable.

5. The appointment of the persons as pleaded by the workman was against leave vacancies of different employees from time to time and after the expiry of the period of their appointments i.e. after the concerned workmen joined their duties the services of those workmen came to an end. Certain permanent workmen shown below were on leave during April, 1985 :—

(1) Shri B. G. Pujari	22 days
(2) Smt. K. Ammani Bai	9 days
(3) Shri S. V. Pendharkar	5 days
(4) Shri Arun Kumar Singh	5 days
(5) Shri S. K. Agrawal	10 days
(6) Shri Fulzintues Kujer	24 days

In May 1985 the following permanent workmen were on leave :—

(1) Shri N. K. Shrivastava	5 days
(2) Shri A. C. Sarkar	14 days
(3) Shri K. K. Patel	6 days
(4) Shri H. K. Wagde	15 days
(5) Shri Y. S. C. Babu	16 days

Thus there was no vacancy during the material time but the workman was employed against leave vacancy due to exigency of work. No unfair labour practice was adopted. Reference is liable to be rejected and be accordingly rejected.

6. Reference was the issue in this case.

FINDINGS WITH REASONS :

7. The workman has examined herself and filed one document Ext. W/1 which is the certificate given by the Manager of the Syndicate Bank, Branch Raipur showing that her work was satisfactory. Management has proved 16 documents and has examined one witness viz. M. P. Pradhan as MW-1. The workman on her part has examined herself.

8. Not only from the documents adduced by the management its case stands established but also the conduct of the workman herself is not reliable. It exposed in her cross-examination. She has avoided to deny her signatures on various places. On the other hand, MW-1, M. D. Pradhan, has not only proved management's case that the persons referred to by the workman were employed against leave vacancies but he has also proved that the workman is serving in Police Department since 22-6-88 as per Ex. M/13.

9. The workman has failed to point out that she was employed against a permanent vacancy. On the other hand, management has substantially proved that the workman had worked against leave vacancy and her period of appointment was extended due to other employees going on leave from time to time. Management has also proved that persons employed after her termination were not against regular vacancies but against leave vacancies. She has hardly worked for 85 days and she does not derive any claim to be reinstated.

10. Reference is accordingly answered as follows :—

The action of the management of Syndicate Bank in relation to their Raipur Branch in terminating the services of Kum. Bharti Rani Gupta w.e.f. 14-6-85 is justified. She is not entitled to any relief. No order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-12012/458/86-D.II (A)]

का.प्रा. 256.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-91 को प्राप्त हुआ था।

S.O. 255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Punjab National Bank and their workmen, which was received by the Central Government on 26-12-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)
Case No. CGIT/LC(R)(257)/1987

PARTIES :

Employers in relation to the management of Punjab National Bank, Bhopal (M.P.) and their workman, Shri Jaswant Singh Rajpal, Officiating Cashier, Bhim Nagar, Amla, Tah. Multal, District Betul (M.P.)

APPEARANCES :

For workman—Shri P. N. Sharma.

For Management—Shri K. Swaminathan.

INDUSTRY : Banking DISTRICT : Bhopal (MP.)

AWARD

Dated, the 13th December, 1991

This is a reference made by the Central Government, Ministry of Labour vide its Notification No. L-12012/155/79-D.II (A)/D.IV (A) dated 16th December, 1987, for adjudication of the following dispute :

"Whether the action of the management of Punjab National Bank in awarding the punishment of dismissal from service to Shri Jaswant Singh Rajpal officiating as Cashier w.e.f. 7-10-76 is justified? If not, to what relief is the workman concerned entitled?"

2. This reference was made and received in this Tribunal in December, 1987. Since then the parties contested the dispute with tooth and nail. As many as five issues were framed for determination of the dispute and adjudication thereon. Out of the five issues orders on preliminary issues i.e. Issue No. 1 and 3 were passed on 19th November, 1990 holding that the departmental enquiry is vitiated and that the management is not entitled to lead evidence. Parties were directed to argue the case on the remaining issues i.e. No. 2, 4 and 5.

3. I need not reproduce the issues as of late goods prevailed in the parties and they have mutually settled the dispute and filed a petition incorporating the terms of settlement which are as under :—

TERMS OF SETTLEMENT

1. That Shri Rajpal would be deemed to have been continued in the services of the Bank from the date of dismissal from service, i.e. 7-10-76 till the date of his reinstatement, i.e. the date on which he reports for duties consequent to this reinstatement.
2. That in full and final settlement of all the claims arising out of the dispute pending before the Tribunal, the bank, the first party, has agreed to make payment of sum equivalent to 40% of

wages which would have been drawn by Shri Rajpal from 7-10-75 till the date of his reinstatement to Shri Rajpal, the Second party, and Shri Rajpal has agreed to accept the said sum in full and final satisfaction of all claims arising out of the dispute against the Bank pending before the Hon'ble Tribunal.

3. That the Bank would make payment of the aforesaid sum referred to in sub clause 2 within one month from the date of passing the appropriate award by the Hon'ble Tribunal subject to usual deduction of income tax, if any.

4. That Shri Rajpal agreed to accept the punishment of "warning" under gross misconduct against the punishment of "dismissal" which hereby stands withdrawn by the bank.

Further the impact of punishment of "warning" under the provisions of the gross misconduct shall commence from the date Shri Rajpal is reinstated

5. That after reinstatement, Shri Rajpal shall be governed by the rules and regulations/awards/settlements as applicable to other employees of the Subordinate Cadre in the bank from time to time relating to matters of salary, leave LTC and other service rules etc.
6. The offer of reinstatement shall be made by the Bank within 30 days of the Consent award given by this Hon'ble Tribunal.
7. That Shri Rajpal shall be reinstated at a point of need in Bhopal Region.
8. Benefit of continuity of service will be given only for gratuity purpose but he shall not be eligible for any other benefits, such as leave etc. to accrue.
9. That this is in full and final settlement of all claims arising out of in respect of the dispute pending before the Tribunal and neither Shri Rajpal, nor the Union nor any other person claiming under Shri Rajpal would raise any dispute or any demand in any manner whatsoever before any authority.
10. That this settlement has been arrived at having regard to the peculiar facts and circumstances of the case and keeping in view the family circumstances of Shri Rajpal and thus the settlement shall not be cited as a precedent by any party before any forum.

4. The above terms of settlement have been signed by Shri J. S. Rajpal, workman concerned and his representative Shri P. N. Sharma. On behalf of the Bank it is signed by the Regional Manager of the Bank, Bhopal and Shri K. Swaminathan, Personnel Officer. The terms have been verified before this Tribunal.

5. I have gone through the terms of settlement. They appear to be just fair and in the interest of the workman concerned I therefore record my award in terms of settlement arrived at mutually between the parties without any order as to costs.

V. N. SHUKLA, Presiding Officer

[No. L-12012/155/79/D. II(A)/D.IV(A)]

का.प्रा. 256.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-91 को प्राप्त हुआ था।

S. O. 256.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation

to the management of Canara Bank and their workmen, which was received by the Central Government on the 26th December, 1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

CASE NO. CGIT/LC(R)(50)/1988

PARTIES:

Employers in relation to the management of Canara Bank, Ramdaspath, Nagpur (MS).

AND

Their workman Shri Vinod Singh Baccchan Singh Oswal, Peon, represented through the Canara Bank Employees' Union, C/o Parvana Bhawan, 44, Kingsway, Nagpur-440001.

APPEARANCES:

For Workman—Shri A. K. Srivastava.

For Management—Shri A. K. Sen Majumdar.

INDUSTRY : Banking. DISTRICT: Nagpur (MS)

AWARD

Dated : December 10, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/570/87-D.II(A) dated 3rd May, 1988, for adjudication of the following dispute:—

“Whether the action of the management of Canara Bank in discharging from service Sri Vinod Singh Baccchan Singh Oswal, Peon, w.e.f. 5th May, 1985 is justified? If not, to what relief is the workman entitled?”

2. The following issues were framed in the instant case:—

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal?
2. Whether the punishment awarded is proper and legal?
3. Whether the management is entitled to lead evidence before this Tribunal?
4. Whether the termination/action taken against the workman is justified on the facts of the case?
5. Relief and costs?

3. This Tribunal vide order dated 13th November, 1990 held that the enquiry is proper and legal and the question of proving the misconduct by the management does not arise. Issues No. 1 & 3 have been accordingly answered.

4. Now coming to the remaining issues the pleadings can be confined to the charge which has been denied by the workman and the evidence adduced in the departmental enquiry. Charge is as follows:

CHARGE

You are working as a Peon at our Ramdaspath, Nagpur branch.

On 9th April, 1984 our Ramdaspath Nagpur branch has received an Authority-cum-Undertaking Letter dated 10th January, 1984 from the Gandhibang Navyug Urban Co-operative Bank Ltd. Nagpur (hereinafter referred to as Co-operative Bank). The said authority letter contains an authority given to then Manager, Canara Bank, Ramdaspath, Nagpur for deducting an amount of Rs. 250 from the month-

ly salary payable to you towards the repayment of Rs. 5000 a loan purported to have been availed by you from the said Co-operative Bank. The undertaking letter contains an undertaking purported to have been signed by Shri B. R. Solanki for deducting an amount of Rs. 250 from your salary and to deposit the same towards the satisfaction of the loan advanced to you by the said Co-operative Bank. Staff Section (W), Circle Office, Cuffe Parade, Bombay, BYS/GM/2/84. 19th April, 1984.

On further enquiry it has come to the light that you have availed a loan of Rs. 5000 on 15th March, 1984 from the said Co-operative Bank, on furnishing the following documents:

- (1) Salary Certificate dated 10th January, 1984 purported to have been signed by Sri B. R. Solanki, Accountant, Ramdaspath, Nagpur branch, wherein it has been certified that your gross salary as Rs. 1075 and the total deduction have been shown as Rs. 168 for the month of December, 1983.
- (2) No objection Certificate dated 10-1-1984 purported to have been signed by Sri B. R. Solanki, Accountant of our Ramdaspath Nagpur branch wherein it has been informed to the said Co-operative Bank that the Bank has no objection if a loan is granted to you and that the instalments will be paid directly to the Co-operative Bank.
- (3) A letter dated 10-1-1984 addressed to the President of the said Co-operative Bank purported to have been signed by Sri B. R. Solanki, Accountant, Ramdaspath Nagpur branch wherein an undertaking has been given to deduct a sum of Rs. 250 per month from your salary and to directly deposit the same to the Co-operative Bank towards the satisfaction of the loan advanced to you by the said Co-operative Bank.

On verifying the records of the Bank, it has been found that the Bank had never issued or addressed any certificate or letter as mentioned above and that Sri B. R. Solanki has also confirmed that he had never signed any of the documents mentioned above. Therefore, there are reasons to believe that you have forged the signature of the Bank Officer viz. Sri B. R. Solanki and knowingly misused the Bank's letter heads for availing the loan from the Co-operative Bank as stated above.

By furnishing the false and forged undertaking to the Co-operative Bank you have made an attempt to put the Bank under monetary obligation which tantamounts to an attempt to damage the property of the Bank and Gross Misconduct under Chapter XI Regulation-3 Clause (j) of the Canara Bank Service Code.

Staff Section (W), Circle Office, Cuffe Parade, Bombay.

BYSW/GM/2/84
19TH APRIL, 1984

Your above acts being prejudicial to the interest of the Bank you have committed gross misconduct within the meaning of Chapter XI Regulation 3 Clause (m) of Canara Bank Service Code.

5. The workman has not only denied the alleged misconduct but also has averred that there is no misconduct under the Rules, there is no report of the hand writing expert, management was motivated, compelling circumstances of his sister's marriage were there, the letter of admission is under coercion, it is belated and the punishment is severe; hence prayed for setting aside the order and reinstatement with back wages and consequential benefits.

6. Having heard the arguments and perusing the documents, I find that there is little force in the case of the workman. Charge-sheet was issued on 19-4-1984. While explaining the charge as per proceedings dated 26-4-84 the workman admitted the charge as per Ex. M/7. Even prior to this a per statement dated 19-4-84 (Ex. M/11) the workman admitted the charge levelled against him and had shown the circumstances in which the things have happened. As per

Ex. M/14 dated 31st December, 1984 while representing to the Chairman he had further admitted the charge at page 2 and specifically stated that he has pleaded guilty. He had also narrated the circumstances which compelled him to do so and he was betrayed by his friend, Shri Choudhary. Even assuming that it has not been established that the forged signatures were made by the workman concerned, but the fact remains that the workman had misconducted and he admitted his guilt and that there is evidence to this effect on record in the departmental enquiry file. Documents Ex. M/1 to Ex. M/16 of the D.E. file are not in question.

7. The misconduct being grave no interference is called for. The misconduct itself does not require mentioning of any rule. Circumstances leading to his misconduct may be good enough, but the gravity of the misconduct is there and the workman cannot be kept in banking industry where faith of the workman is paramount importance. This workman cannot acquire the faith of the Company. The punishment is proper. Termination/action taken by the management is justified on the facts of the case and the workman is not entitled to any relief. No costs are, however, awarded.

8. Reference is answered accordingly as follows :—

The action of the management of Canara Bank in discharging from service Sri Vinod Singh Bacchan Singh Oswal, Peon, w.e.f. 5-5-85 is justified. He is not entitled to any relief. Parties to bear their own costs.

V. N. SHUKLA, Presiding Officer

[No. L-12012/570/87-DII(A)]

का.मा. 257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, जबलपुर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-91 को प्राप्त हुआ था।

S.O. 257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on the 26-12-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(118)/1988

PARTIES :

Employers in relation to the management of Life Insurance Corporation of India, Jabalpur (M.P.) and their workman, Shri Santosh Kumar Sharma, Sub-staff C/o Shri Ashok Kumar Sharma, P.O. Majdrik Karma Balak Chhatrabas, behind D. J. Court Post Office, Shogpur, District Shahdol (M.P.).

APPEARANCES :

For Workman—Shri M. L. Jain, Advocate.

For Management—Shri R. P. Agarwal, Advocate.

INDUSTRY : Insurance Co. DISTRICT : Jabalpur (M.P.).

AWARD

Dated, December 13th, 1991

This is a reference made by the Central Government. Ministry of Labour, vide its Notification No. L-17012/13/88-D. IV(A)/DI(B), dated 4-11-1988, for adjudication of the following dispute :—

SCHEDULE

"Whether the action of the management of LIC of India, Jabalpur in terminating Shri Santosh Kumar Sharma, Sub-staff from services on 4-4-1987 is justified? If not, to what relief is the workman concerned entitled?"

2. Facts leading to this case are as follows :—

The workman, Shri Santosh Kumar Sharma worked at Chhatrapur Branch. He worked from 8-5-85 to 15-7-85 (according to the management upto 17-7-85), then again from 24-4-86 to 17-7-86 and thereafter again from 8-8-86 to 3-4-87 (according to the management he worked from 11-8-86). His services were terminated with effect from 4-4-87. There has been a National Award which is also not disputed.

3. Workman says that for first two occasions he was employed as temporary waterman and on the 3rd occasion he was employed as Sub-staff, Office Peon, though temporarily, but on oral order. His services have been terminated for no rhyme or reason and break in service was to deprive him of the status of permanency. His abrupt termination of service was also meant to deprive him of the privileges of permanency. This amounts to unfair labour practice contrary to the National Award. He is entitled to be regularised and given permanent status with full back wages and consequential benefits.

4. Management says that the workman was deployed on the specific undertaking that he will not claim any regular appointment and on this undertaking only he was deployed as casual temporary workman on different occasions from time to time. He was casual and temporary employee. He is not covered by the National Industrial Tribunal Award.

5. According to the management "A class IV employee in order to claim absorption must have worked for 70 days in three calendar years within the cut off date i.e. 1-1-82 to 20-5-85". The workman has not fulfilled this condition. He was pure and simple waterman and not a peon. It was in view of the National Industrial Tribunal Award that the Corporation could not make regular appointment and an undertaking was given on behalf of the management to the National Tribunal that till the hearing and disposal of the second reference the management will not make any appointment from the open market. It was on this undertaking that no regular appointment was made.

6. The second award was given on 26th August, 1986 and published in the Gazette on 1st October, 1988. Thus the management was justified in making temporary appointment in exercise of their powers under Clause (8) of the LIC of India (Staff Regulation), 1960. The workman is not entitled to any relief.

7. Reference was the issue in this case.

FINDINGS WITH REASONS

8. According to the workman he worked for 74 days for the first time. It would be 76 days according to the management. He worked for 85 days for the second time and 235 days for the 3rd time. According to management it was 233 days. It was just short of few days out of 240 days. The workman has filed an affidavit as W.W. 1 and examined one Kashiram as W.W. 2. Management has also filed an affidavit of R. S. Tiwari as M.W. 1. All these witnesses have been cross-examined at length.

9. Workman has proved four documents Ex. W/1 to Ex. W/4 and management has proved one document Ex. M/1.

10. Ex. M/1 is an application which lays down the condition that if he is appointed he will not claim for permanent vacancy. The application does not disclose as to for which period his employment is related because the workman was employed thrice. That apart, condition related to permanency and not regularisation or continuity of service.

11. That apart, from the pleadings of the management underlined by me the workman has completed 78 days service in the calendar years 1985-86 and 1986-87. The workman has stated on oath that he was doing all the job of a Peon apart from working as a Waterman. He was also orally assured. He has also proved Wage-sheet which has been

marked as Ex. W/5. This is a calculation sheet of the workman wherein he has been shown as temporary workman and has been paid bonus for the year 1985-86. It is dated 8-10-1986.

12. I have gone through the photo copy of the award particularly paras 44 and 55 and other paras and I do not think that they come in the way of deployment of the workman or continuing his service. Even from the pleadings and undertaking also this fact is clear. He had almost completed few days short of 240 days service. It has to be kept in mind that during last two years also he had served for 74/78 days and 85 days. There is no justification of abruptly terminating his service on the ground of the alleged award which does not apply to the facts of this case. On the other hand, the award is in favour of the workman concerned. This short time in the context, short of 240 days service also amounts to unfair labour practice and if there is a condition and specific period it amounts to abusing the amended provision of law as laid down in the case of Dilip Hanumantrao Shrike and others Vs. Zilla Parishad, Vayatal and others (Lab. I. C. 1990 p. 100) and R. Sreenivasa Rao Vs. The Labour Court, Hyderabad and another (Lab. I.C. 1990 p. 174). These judgments are of Bombay and the Andhra High Courts respectively.

13. The termination of the workman therefore though not void cannot be accepted as a valid termination. The workman is entitled to reinstatement but without any back wages. He will get continuity in service from 4-4-1987 onwards. He shall also be considered for regularisation. No order as to costs. Award is given and reference is answered accordingly.

V. N. SHUKLA, Presiding Officer

[No. L-17012/13/88-D.IV(A)/DI(B)]

नई दिल्ली, 8 जनवरी, 1992

का.ग्रा. 258.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

New Delhi, the 8th January, 1992

S.O. 258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on the 1-1-1992

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 138/89

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या :

एस. 17012/137/89—आई.आर.बी.दि. 15-12-89

डिवीजनल सेक्रेटरी, नोर्दन जोन इन्श्योरेंस एम्प्लोईज एसोसिएशन, अजमेर।

बनाम

सिनीयर डिवीजनल मैनेजर, जीवन बीमा निगम, अजमेर

उपस्थिति

यूनियन की ओर से : श्रीमती माया बंसल
नियोजक की ओर से : श्री एम.डी. अग्रवाल
दिनांक अर्वाह : 16-7-91

अर्वाह

श्रीमती माया बंसल यूनियन की ओर से तथा श्री एम.डी. अग्रवाल विपक्षी की ओर से उपस्थित हैं। श्रीमती बंसल क्लेम पेश करने के लिए समय चाहती हैं, यूनियन को दिनांक 22-2-90 से निरन्तर क्लेम पेश करने के लिए समय दिया जा रहा है अब समय दिया जाना उचित नहीं है अतः इस प्रकरण में नो डिस्मिट अर्वाह पास किया जाता है जो केन्द्र सरकार को प्रकाशनार्थ भेजा जाये।

जगजित सिंह, न्यायाधीश

[सं. एस-17012/137/89-डी-II (ए)]

का.ग्रा. 259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ौदा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-1-92 को प्राप्त हुआ था।

S.O. 259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Bank of Baroda and their workmen, which was received by the Central Government on the 1-1-1992.

केन्द्रीय औद्योगिक न्यायाधिकरण जयपुर।

केस नं. सी.आई.टी. 61/87

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना : एस 12012/524/86-डी 11 (ए) दिनांक 26-87

श्री सतबीर प्रसाद गुप्ता मार्फत जनरल मैनेजरी, रेलवे कैंजुअल लेबर यूनियन, डागा स्कूल के पास, बीकानेर।

बनाम

रीजनल मैनेजर, बैंक आफ बड़ौदा, पी.बी.नं. 9, डी-38-ए, अशोक मार्ग, सी-स्कीम, जयपुर।

उपस्थिति

माननीय न्यायाधीश श्री जगत सिंह, आर.एस.जे. एस.

यूनियन की ओर से : श्री अरविन्द सिंह

नियोजक की ओर से : श्री पंकज भण्डारी

दिनांक अर्वाह : 8-7-91

अर्वाह

केन्द्र सरकार ने निम्नलिखित विवाद इस न्यायाधिकरण को न्याय निर्णय हेतु अपनी अधिसूचना संख्या : एस 12012/524/86-डी ii (ए) दिनांक 26-8-81 के द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 (1) डी के अंतर्गत प्रेषित किया है -

"क्या बैंक आफ बड़ौदा के प्रबंधन की श्री सतबीर प्रसाद गुप्ता

को दिनांक 18-12-81 के पश्चात रोजगार न देने तथा उसकी सेवायें समाप्त करने की कार्यवाही उचित, सही तथा वैध है ? यदि नहीं, तो संबंधित कर्मकार किस अनुतोष का हकदार है ? "

2. प्रार्थी सतबीर प्रसाद गुप्ता जिसे तत्पश्चात श्रमिक सम्बोधित किया गया है, ने जरिये क्लेम प्रकट किया कि उसकी नियुक्ति अप्रार्थी सं. 2 द्वारा इनकी बीकानेर शाखा में नियुक्ति की गई थी जहां पर उसने 28-4-80 से 17-12-81 तक 77 दिवस कार्य किया और उक्त अवधि

के 47 अवकाश मिलने पर कार्य बिस 124 हो जाते हैं। श्रमिक कहता है दिनांक 18-12-81 को उसकी सेवायें मौखिक तौर से समाप्त कर दी गई। नियोजक ने सेवा समाप्ति के समय "पीछे आये पहले जाये" के सिद्धान्त का पालन नहीं किया और न ही सेवा समाप्ति के पूर्व वरिष्ठता सूची घोषित की गई। श्रमिक से कनिष्ठ कर्मचारी सर्वश्री मनोज कुमार सम्सेना तथा प्रदीप कुमार की सेवायें कायम रखते हुए प्रार्थी श्रमिक को सेवा मुक्त किया इसलिए भी धारा 25 (जी) की अवहेलना की गई है तथा सेवा मुक्ति आवेदन प्रपत्र भर दिया जाये और श्रमिक को पुनः नियोजित करते हुए दिनांक 18-12-81 से उक्त पद का वेतन तथा अन्य सभी लाभ दिलाये जाये।

3. प्रार्थी नियोजकगण ने जरिये संयुक्त प्रति उत्तर स्वीकार किया कि श्रमिक का नियुक्ति पत्र श्रेणी कर्मचारी के रूप में दैनिक वेतन पर दिनांक 28-4-80 से 17-11-81 तक केवल 77 दिवस तक रखा गया था। उक्त अवधि में भी इसमें लगातार कार्य नहीं लिया गया बल्कि जब कभी बैंक का कर्मचारी छुट्टी पर रहता अथवा कार्य अधिक होता तो इस श्रमिक से कार्य लिया जाता था। उक्त अवधि के अवकाश के 47 दिन देने का प्रश्न नहीं उठता। प्रार्थी रैग्युलर सेवा में नहीं था और नहीं 18-12-81 को इसकी सेवा समाप्त की गई बल्कि कार्य न होने से इससे कार्य नहीं लिया गया। नियोजक यह भी स्वीकार करता है कि मनोज कुमार सम्सेना या प्रदीप कुमार को सेवा में रखा गया हो। नियोजक के अनुसार विवाद रेलवे केजुअल लेबर यूनियन द्वारा स्पॉन्सर्ड है जिसे इस विवाद को चलाना का ह. नहो है क्योंकि यूनियन बैंक में संबधित नहीं है तथा यह बाद सात वर्ष बाद अत्यंत देरी से उत्पन्न हुआ है इसलिए भी चलने योग्य नहीं है।

4. अपने कथनों के समर्थन में श्रमिक सतवीर प्रसाद गुप्ता ने स्वयं का शपथ पत्र प्रस्तुत कर स्थापित कराया जिससे नियोजक प्रतिनिधि ने जिरह की। इसके विपरीत नियोजक की तरफ से श्री पी. सी. गोधा ने शपथ पत्र पेश किया जिससे श्रमिक प्रतिनिधि ने जिरह की। प्रलेखिक साक्ष्य में डब्ल्यू-12 एवं डब्ल्यू-2 फोटो प्रतिनिधि पेश हुई है तत्पश्चात मैंने पतावसी का निरीक्षण किया और पत्रकारों के प्रतिनिधियों को विस्तारपूर्वक सुना।

5. मैं सर्वप्रथम नियोजक प्रतिनिधि द्वारा उठाई गई प्राथमिक आपत्ति का निपटारा करता जाहूँगा।

6. नियोजक प्रतिनिधि की प्रश्न आपत्ति यह थी कि यह विवाद रेलवे केजुअल लेबर यूनियन द्वारा स्पॉन्सर्ड किया गया है जो नियोजक संस्थान से संबधित नहीं है न ही नियोजक संस्थान का कोई श्रमिक उक्त यूनियन का सदस्य है। इसलिए उक्त यूनियन को विवाद खड़ा करने का अधिकार नहीं है। हालांकि क्लेम के प्रतिउत्तर में तो नियोजक प्रतिनिधि ने उपरोक्त आपत्ति का उल्लेख किया है परन्तु न तो नियोजक साक्षी श्री पी. सी. गोधा ने इस बिन्दु बाबत अपने शपथ पत्र में उल्लेख किया है और न ही श्रमिक से प्रति परीक्षा में इस विषय में सुझावात्मक प्रश्न किये हैं। तर्क के लिए यह मान भी न कि प्रार्थी संस्थान का कोई श्रमिक रेलवे केजुअल लेबर यूनियन का सदस्य नहीं है तो भी इससे श्रमिक के कथनों पर प्रतिकूल प्रभाव नहीं पड़ता है क्योंकि चाहे समझौता अधिकारी के समक्ष उक्त यूनियन ने विवाद खड़ा किया हो परन्तु केन्द्र सरकार ने न तो रिकॉर्ड में रेलवे केजुअल लेबर यूनियन के नाम का उल्लेख किया है और न ही उक्त यूनियन की तरफ से तत्पश्चात कोई कार्यवाही की गई है। अर्थात् इस न्यायालय में जो क्लेम पेश किया गया है वह श्रमिक सतवीर प्रसाद द्वारा ही प्रस्तुत किया गया है और पश्चात भी श्रमिक ने ही अपने प्रतिनिधि के द्वारा परीक्षा की है। नियोजक प्रतिनिधि की तरफ से ए. आई. आर. 1957 (एम सी) (532 तथा ए. आई. आर 19 (एम सी) 318 के न्याय बुष्टान्त का उल्लेख किया है जो विवाद पर लागू नहीं होते तत्पश्चात औद्योगिक विवाद अधिनियम संशोधित कर धारा-2 (ए) लागू कर दी गई है जिसके अनुसार सेवा मुक्ति सम्बन्धी विवाद संबंधित श्रमिक को उठाने का अधिकार दिया गया है। राजस्थान उच्च न्यायालय ने भी मै. संगम एक्जिबीटर्स एस. बी. सिविल रिट पिटी. नं. 1620/80 निर्णय दिनांक 10-8-86 के अंतर्गत यह स्पष्ट कर दिया

है कि धारा 2 (ए) लागू होने के उपरान्त सेवा मुक्ति विवाद श्रमिक स्वयं उठाने के लिए सक्षम है। इन परिस्थिति में नियोजक प्रतिनिधि की प्रथम आपत्ति निराधार मानते हुए खारिज की जाती है।

7. नियोजक प्रतिनिधि की दूसरी आपत्ति यह थी कि सेवा मुक्ति के सात वर्ष बाद यह विवाद खड़ा किया गया है इसलिए अत्याधिक देरी होने से खारिज करने योग्य है। मैं उक्त तर्क से भी सहमत नहीं हूँ क्योंकि राज्य सरकार को किसी विवाद को रफर करने के लिए कोई कालाबद्ध निर्धारित नहीं है तथा जब एक बार भारत सरकार ने विवाद को निर्दिष्ट कर दिया तो यह न्यायालय यह नहीं देख सकता कि तथाकथित निर्देश अत्याधिक विलम्बित होने से खारिज करने योग्य हो बल्कि न्यायालय का प्रत्येक निर्देश का उत्तर देना आवश्यक है। यह सही है कि श्रमिक की सेवा मुक्ति 18-12-81 को की गई थी और समझौता वार्ता में 11-2-86 को आवेदन दिया गया था। अधिक से अधिक उक्त अवधि के वेतन का भार नियोजक पर नहीं डाला जा सकता और यह आपत्ति भी खारिज की जाती है।

8. जहाँ तक गुणावगुण का प्रश्न है नियोजक भी यह स्वीकार करता है कि दिनांक 28-4-81 से 17-12-81 तक इस श्रमिक से 77 दिवस कार्य लिया गया है अभिलेख पर उपलब्ध साक्ष्य से यह निश्च है कि श्रमिक से ड्यूटी दैनिक वेतन पर आकस्मिक कर्मचारी के रूप में चपरासी के पद पर ली गई थी तथा जब कभी कोई चपरासी छुट्टी पर रहता था अथवा कार्य अधिक होता था तो उससे कार्य लिया जाता था। निर्विवाद रूप से नियोजक ने दैनिक वेतन भांगी आकस्मिक पत्र श्रेणी चपरासी की वरिष्ठता सूची तैयार नहीं की। नियोजक प्रतिनिधि का यह कहना है कि ऐसी वरिष्ठता सूची तैयार करना अपेक्षित नहीं था। मैं उक्त तर्क से सहमत नहीं हूँ क्योंकि राजस्थान उच्च न्यायालय ने धरमपाल सिंह बनाम राजस्थान राज्य एस. बी. सिविल रिट पिटी. 3585/80 निर्णय दिनांक 13-11-90 द्वारा निम्न मत व्यक्त किया है —

"Whether a person has completed the service of statutory period or not he is entitled for the benefits mentioned in Sections 25G and 25H of the Act and as such if the retrenchment is to be made even of a person who has worked for less than the statutory period it has to be on the basis of 'first come last go'."

इसी प्रकार जनरल मैनजर, उत्तरी रेलवे, डी. बी. सिविल रिट पिटीशन नं. 218/90 निर्णय दिनांक 23-4-91 में भी माननीय खंड पीठ ने विभिन्न उच्च न्यायालयों के तथा उच्चतम न्यायालय के निर्णय के विश्लेषण उपरान्त राजस्थान औद्योगिक विवाद नियमावली के नियम-77 को मैनडेटरी प्रकृति का होना घोषित किया था और धारा 25 (जी) की पालना किये बिना श्रमिक की सेवा मुक्ति को अनुचित बताया है। नारंग रेलवे बनाम सी. आई. टी. जयपुर, 1990 (1) आर. एल. डब्ल्यू. — 136 के न्याय दृष्टान्त में भी धारा 25 (जी) तथा नियम-77 की अनुपालना किये बिना सेवा मुक्ति करना अनुचित माना है। उस दृष्टान्त में भी श्रमिक ने 240 दिवस कार्य नहीं किया था अतः उपरोक्त समस्त कारणों से चाहे श्रमिक ने एक कलेण्डर वर्ष में 240 दिवस की सेवा पूरी नहीं की हो और चाहे उसकी नियुक्ति दैनिक वेतन पर आकस्मिक कर्मचारी के रूप में की गई हो उसकी सेवा मुक्ति के पूर्व वरिष्ठता सूची बनाना आवश्यक था।

9. श्रमिक ने क्लेम में तथा अपने शपथ पत्र में भी दर्ज किया है कि सेवा मुक्ति के समय उसने कनिष्ठ सर्वश्री मनोज सम्सेना व प्रदीप कुमार को सेवा में कायम रखते हुए उसे हटाया गया था। नियोजक ने अपने प्रति उत्तर में उक्त कथनों बाबत स्पष्ट उत्तर नहीं दिया कि उक्त व्यक्ति सेवा में था या नहीं? श्रमिक ने कनिष्ठ थे या वरिष्ठ बल्कि गोलमोल उत्तर दिया है कि उन दोनों को सेवा में कायम रखना गलत है। श्रमिक से भी प्रति परीक्षा में ऐसे सुझावात्मक प्रश्न नहीं किये कि उक्त

दोनों व्यक्ति श्रमिक से कनिष्ठ नहीं हैं। श्रमिक यह स्वीकार करता है कि दोनों व्यक्ति वर्तमान में रेग्युलर कार्यरत नहीं हैं। नियोजक साक्षी श्री गोधा ने उन दोनों व्यक्तियों को अधीनस्थ कर्मचारियों के रूप में नियुक्ति करना प्रस्तावित किया है, परन्तु इस संबंध में नियोजक के किसी प्रलेख को प्रस्तुत नहीं किया। चूंकि नियोजक साक्षी श्री गोधा ने सर्वप्रथम अपने शपथ पत्र में ही यह दर्ज किया है कि मनोश कुमार यशवंत तथा प्रदीप कुमार को न तो नियुक्त किया गया और न ही सेवा मुक्त किया गया इसलिए उसकी उक्त अपुष्ट साक्ष्य पर विश्वास नहीं किया जा सकता। नियोजक से यह अपेक्षा थी कि वह क्लेम के प्रति उत्तर में भी उक्त नप्यों को उल्लेख करता और श्रमिक से भी प्रतिपरीक्षा में उक्त विषय के सुझावात्मक प्रश्न करता तथा दिनांक 28-4-80 से 17-12-80 तक की अवधि में दैनिक वेतन पर जो आकस्मिक चपरासी रखे गये थे उनका रिकार्ड प्रस्तुत करता। अतएव अभिलेख पर जो साक्ष्य पेश हुई है उससे यह निष्कर्ष निकलता है कि 17-12-81 को जिस रोज श्रमिक की सेवा मुक्ति की गई श्रमिक से कनिष्ठ मनोज सक्तीना एवं प्रदीप कुमार नियोजन में थे इसलिए भी सेवा मुक्ति आदेश कायम नहीं रखा जा सकता।

10. बहुस के दौरान नियोजक प्रतिनिधि का एक कथन यह था कि सेवा मुक्ति के उपरान्त से यह श्रमिक अन्यत्र नियोजित रहा है हालांकि क्लेम के प्रति उत्तर में तो उक्त तर्क का उल्लेख नहीं है परन्तु नियोजक साक्षी श्री पी. सी. गोधा ने आरियन्टल आटोमोबाईल प्राईवेट लि. बीकानेर में श्रमिक का कार्यरत रहना बताया है। प्रतिपरीक्षा में नियोजक साक्षी कहता है कि उसे यह पता नहीं कि श्रमिक ने उक्त कंपनी में कब से कब तक कार्य किया। श्रमिक सतवीर प्रसाद गुप्ता प्रतिपरीक्षा में यह स्वीकार करता है कि उसने ओरियन्टल आटोमोबाईल प्रा. लि. बीकानेर में काम सीखने के लिए नौकरी की थी परन्तु बुर्रटना होने से उक्त कंपनी ने उसे निकास दिया। अभिलेख पर ऐसी माध्य नहीं है जिससे यह निष्कर्ष निकले कि सेवा मुक्ति के दौरान कब से कब तक इस श्रमिक ने उक्त कंपनी में कार्य किया और कितनी राशि प्राप्त की। इसलिए यह साबित नहीं है कि श्रमिक मैनुअल एम्प्लायमेंट में रहा हो। किसी भी सेवा मुक्त कर्मचारी से यह अपेक्षा नहीं की जाती कि वे विचारण के दौरान कार्यकर अपने परिवार का पालनपोषण न करे अतएव चाहे श्रमिक ने सेवा मुक्त अवधि में कुछ अवधि कार्य किया हो इससे कोई प्रभाव नहीं पड़ता और भेरे समझ कोई तर्क प्रस्तुत नहीं किये गये, अतः इस निर्देश का अधिनियम निम्न प्रकार से किया जाता है कि—

श्रमिक सतवीर प्रसाद गुप्ता दैनिक वेतन भोगी चपरासी की दिनांक 18-12-81 से सेवा मुक्ति उचित एवं वैध नहीं है और इसे उक्त पद पर नियोजित घोषित किया जाता है। उसकी सेवा की निरन्तरता कायम रखी जाती है, परन्तु श्रमिक ने समझौता वार्ता में भाव 11-2-86 को उठाया था इसलिए उसे 18-12-81 से 31-12-85 तक की अवधि का वेतन नहीं दिलाया जाता है और 1-1-86 से श्रमिक अपने पद का वेतन व अन्य सभी लाभ प्राप्त करने का अधिकारी है। इसे 100 रु. खर्चा मुकदमा दिलाया जाता है। नियोजक उक्त समस्त राशि अन्दर तीन माह, जो कि प्रकाशन की दिनांक से माने जायेंगे, अदा नहीं करेगा तो उक्त राशि पर 12 प्रतिशत प्रतिवर्ष की दर से ब्याज अंश करेगा। उक्त आशय का अर्वाह पारित किया जाता है जो केन्द्र सरकार को अंतर्गत धारा 17 (1) अधिनियम भेजा जाये।

जगत सिंह, न्यायाधीश

[सं. एच-12012/524/86-डी-2 (ए)]

का.आ. 260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 1-1-92 को प्राप्त हुआ था।

S.O. 260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of UCO Bank and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 80/1989

रैफरेंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली की अधिसूचना सं. एच-12012/882/88-डी-2 (ए) दिनांक 8 अगस्त, 1989 श्री रमा शंकर पुत्र श्री गणपति लाल जोशी, निवासी छांता हाउस, चांदपोल गेट, बाहर जयपुर।

—प्रार्थी

बनाम

व्यवस्थापक, यू. को. बैंक, बनी पार्क, जयपुर (राजस्थान)

—प्रार्थी

उपस्थिति

माननीय श्री जगत सिंह, न्यायाधीश, आर. एच. जे. एस.

प्रार्थी की ओर से :

श्री जे. एल. शाह

प्रार्थी की ओर से :

श्री मानसिंह गुप्ता

दिनांक अर्वाह :

5-10-91

अर्वाह

भारत सरकार ने अपनी उपरोक्त अधिसूचना द्वारा निम्न विवाद इस न्यायाधिकरण को अधिनियमार्थ अन्तर्गत धारा 10 (1) (बी) औद्योगिक विवाद अधिनियम प्रेषित किया है :

“Whether the action of the management of UCO Bank in terminating the services of Shri Rama Shankar and no considering him for further employment while recruiting fresh hands under Section 25H of the ID Act is justified? If not to what relief is the workman concerned entitled?”

2. श्री रमा शंकर, जिसे तत्पश्चात् प्रार्थी श्रमिक कहकर संबोधित किया गया है, ने जरिये क्लेम प्रकट किया कि उसकी नियुक्ति दैनिक वेतन भोगी पीओन के पद पर 15-7-85 को प्रार्थी द्वारा की गई थी और उसे 16/- रुपये प्रतिदिन के हिसाब से वेतन मिल रहा था तथा उसने 14-8-87 तक लगातार सेवा की थी परन्तु 15-8-87 से प्रार्थी ने ने उसे सेवा मुक्त कर दिया। सेवा मुक्ति आदेश न तो लिखित में दिया और न ही कोई कारण बताया। नोटिस अर्वाह नोटिस के एवज में वेतन या छंटनी का भुग्तावा भी नहीं दिया। इस प्रकार धारा 25-एफ अधिनियम की अवहेलना की।

3. प्रार्थी श्रमिक कहता है कि सेवा मुक्ति के समय बरिष्ठता सूची नहीं बनाई और उससे कनिष्ठ व्यक्तियों को सेवा मुक्त नहीं किया गया है तथा सेवा मुक्ति के उपरान्त दैनिक वेतन भोगी पीओन के पद पर नई नियुक्तियां भी की गई हैं और उसे सूचना तक नहीं दी गई। इसलिए धारा 25-जी और 25-एच का भी उल्लंघन हुआ है। प्रार्थी श्रमिक की प्रार्थना है कि सेवा मुक्ति आदेश अर्वाह किया जावे और उसे दैनिक वेतन भोगी पीओन के पद पर नियोजित मानते हुए 15-8-87 से अब तक का वेतन व अन्य सभी लाभ दिलाये जावें।

4. प्रार्थी नियोजक ने जरिये प्रत्युत्तर क्लेम के तथ्यों का अस्वीकार किया है और कहा है कि प्रार्थी को दैनिक वेतन भोगी के रूप में नहीं लगाया गया बल्कि उसे केवल मात्र घंटे, आधे घंटे या डेढ़ घंटे भर कार्य करने के लिए लगाया गया था जो पूर्ण रूप से आकस्मिक कार्य होता था, उसकी हाजिरी उपस्थिति पंजिका में नहीं होती थी, उसके वेतन का भुगतान भी सैसरी प्रकाउंट से नहीं होता था बल्कि विविध खाते से उसे भुगतान किया जाता था, इसलिए प्रार्थी औद्योगिक विवाद अधिनियम 1947 के

को अंतर्गत श्रमिक नहीं था। नियोजक यह भी कहता है कि प्राचीं श्रमिक को सेवा मुक्त नहीं किया गया बल्कि जब कभी भी आकस्मिक कार्य होता उसे उस कार्य के लिए अंशकालीन रूप में लगा लिया करते थे। उक्त कार्य स्थाई प्रकृति का नहीं था, उससे कनिष्ठ श्रमिक कार्यरत नहीं हैं तथा धारा 25-एफ 25-जी व 25-एच की अवहेलना नहीं हुई है। बैंक में बिधि के अनुसार योग्य अभियांत्रिकियों को योग्यता के आधार पर नियुक्ति करने के पश्चात् नियुक्ति दी है। शाखा प्रबंधक को नियुक्ति देने का अधिकार नहीं है। नियोजक यह अस्वीकार करता है कि 15 जुलाई 1985 से 14-8-87 तक श्रमिक ने बैंक में अंशकालीन दैनिक वेतन भोगी कार्यकर्ता के रूप में कार्य किया है परन्तु उक्त कार्य प्राधा घंटे से लेकर डेढ़ घंटे तक ही था और आकस्मिक प्रकृति का कार्य था इसलिए धारा 25-एफ, 25-जी और 25-एच लागू नहीं होता है तथा नियोजक ने श्रमिक को नोटिस अथवा उसके एवज में नोटिस वेतन अथवा छंटी मुआवजा देना आवश्यक नहीं समझा।

5. अपने कथनों के समर्थन में प्राचीं रमा शंकर ने स्वयं का शपथ पत्र प्रस्तुत कर सत्यापित कराया जिससे नियोजक प्रतिनिधि ने जिरह की। प्राथमिक साक्ष्य में प्रबन्ध डब्ल्यू-1 लगायत डब्ल्यू-4 पेश किया। इसके विपरीत नियोजक की तरफ से श्री गोपीचन्द्र, डिप्टी चीफ आफीसर का शपथ पत्र पेश किया है जिससे श्रमिक प्रतिनिधि ने जिरह की है। तत्पश्चात् मैने पत्रावली का निरीक्षण किया तथा पक्षकारों के प्रतिनिधियों को विस्तारपूर्वक सुना।

6. प्राचीं श्रमिक ने क्लेम की तरह ही अपने शपथ पत्र में भी बयान दिया है कि उसने 15-7-85 से 14-8-87 तक लगातार दैनिक वेतन भोगी पीओन के पद पर अप्राचीं बैंक में काम किया और इस प्रकार उसने एक कलैण्डर वर्ष में 240 दिवस से अधिक की सेवा पूर्ण कर ली थी। नियोजक साक्षी श्री गोपीचन्द्र प्रति परीक्षा में स्वीकार करता है कि 15-7-85 से 17-7-86 तक इस श्रमिक ने 252 दिवस काम किया है जिसमें सप्ते शामिल नहीं है। इस प्रकार अभिलेख पर उपलब्ध साक्ष्य से यह साबित है कि श्रमिक ने एक कलैण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी। अप्राचीं नियोजक ने क्लेम के प्रत्युत्तर में तो यह दर्ज किया है कि श्रमिक से कराया गया काम अंशकालीन प्रकृति का था और उसे प्राधा घंटे से लेकर डेढ़ घंटे तक ही रोजाना कार्य लिया जाता था, ऐसा ही नियोजक साक्षी श्री गोपीचन्द्र ने भी अपने शपथ पत्र में दर्ज किया है परन्तु समझौता अधिकारी के समक्ष नियोजक ने ऐसा कोई कथन नहीं किया। इस विषय में समझौता अधिकारी के समक्ष नियोजक पक्ष ने दिनांक 20-1-88 को व तत्पश्चात् दिनांक 16-8-88 को प्रार्थना पत्र पेश किए थे, उनकी फोटो प्रतियां अभिलेख पर उपलब्ध हैं, इसमें नियोजक की तरफ से यह दर्ज नहीं किया गया कि श्रमिक से अंशकालीन कार्य करवाया गया हो अथवा उसे कभी भी प्राधा घंटे से लेकर डेढ़ घंटे ही कार्य कराया हो; यहां तक कि श्रमिक भी रमा शंकर से भी प्रति परीक्षा में इस विषय के सुझावात्मक प्रश्न नहीं किए गए। यह उल्लेखनीय है कि श्रमिक से मात्र प्राधा घंटे से लेकर डेढ़ घंटे कार्य करवाया गया हो, इस बात को साबित करने के लिए नियोजक की ओर से किसी प्रकार का कोई प्रलेख पेश नहीं हुआ है। इसलिए नियोजक साक्षी श्री गोपीचन्द्र के अप्रुप्त कथनों पर विश्वास नहीं किया जा सकता और यह साबित नहीं है कि श्रमिक से केवल अंशकालीन कार्य ही करवाया गया हो अर्थात् रोजाना प्राधा घंटे से लेकर डेढ़ घंटे तक ही कार्य लिया हो।

7. अभिलेख पर उपलब्ध साक्ष्य से यह माना गया है कि एक कलैण्डर वर्ष में 240 दिवस से अधिक सेवा श्रमिक ने कर ली थी फिर भी धारा 25-एफ के प्रावधानों का लाभ नहीं दिया गया अर्थात् न तो उसे नोटिस दिया गया और न ही नोटिस के एवज में एक माह का वेतन दिया गया यहां तक कि छंटी भत्ता भी नहीं दिया इसलिए सेवा मुक्ति आदेश 15-8-87 प्रारंभ से ही गून्व (बोर्ड-एव-हमीशियों) हो जाता है।

8. श्रमिक ने अपने रिजॉइंडर दिनांक 30-4-90 की चरण सं. 7 में दर्ज किया है कि उसकी सेवा मुक्ति के उपरान्त सर्वश्री बहादुर व जयकृष्ण कर्मचारी दैनिक वेतन पर कार्य कर रहे हैं जिन्हें प्राचीं की सेवा मुक्ति के बाद नियुक्त किया गया है। शपथ पत्र की चरण संख्या 5 में भी श्रमिक ने उक्त तथ्यों का उल्लेख किया है फिर भी उससे इस विषय में विशेष प्रति-परीक्षा नहीं की गई। हालांकि नियोजक साक्षी श्री गोपीचन्द्र ने अपने शपथ पत्र की चरण सं. 5 में दर्ज किया है कि श्रमिक को सेवा मुक्ति के उपरान्त सर्वश्री रामनिवास, महेंद्र कुमार, जे.एम. पुरोहित, जयसिंह एस.एस. बाजावत व सुनील कुमार को नहीं रखा परन्तु इस विषय में संबंधित रिकार्ड नियोजक की तरफ से पेश नहीं किया गया। दिनांक 30-4-90 को श्रमिक की तरफ से उक्त रिकार्ड पेश करने की भर्जी पेश की गई थी और न्यायालय में पक्षकारों को सुनने के उपरान्त दिनांक 24-9-90 को उक्त प्रलेख पेश करने का आदेश नियोजक को दिया था, अनेकों अवसर नियोजक ने प्रलेख पेश करने के लिए लिए थे परन्तु 11-3-91 को नियोजक के प्रतिनिधि ने प्रकट किया कि उनके पास प्रलेख नहीं है तथा न्यायालय द्वारा आदेश देने के उपरान्त भी उक्त विषय में किसी का शपथ पत्र पेश नहीं किया गया। नियोजक से अपेक्षा थी कि वह शपथ पत्र द्वारा यह प्रकट करते कि जाह्ना गया प्रलेख उनके पास क्यों नहीं उपलब्ध है जिसके अभाव में यही निष्कर्ष निकलता है कि संभवतः उक्त प्रलेख नियोजक के विरुद्ध जा रहा था अतः नियोजक ने उसे पेश नहीं किया फलस्वरूप पेश नहीं करने को बाबत नियोजक के विरुद्ध "एडवर्स इम्फॉरेंस" भी निकाली जाती है और इस प्रकार नियोजक ने धारा 25-एच अधिनियम का भी उल्लंघन किया है।

9. श्रमिक प्रतिनिधि ने बहस के दौरान प्रकट किया कि सेवा मुक्ति से पूर्व वरिष्ठता सूची नहीं बनाई गई तथा नियोजक पक्ष के प्रतिनिधि भी उक्त तथ्य को स्वीकार करते हैं इसलिए धारा 25-जी एवं नियम 77 को भी अवहेलना होती है।

10. नियोजक प्रतिनिधि ने बहस के दौरान प्रकट किया कि सेवा मुक्ति के उपरान्त 12-10-89 को नियोजक तथा श्रमिक संघ के साथ एक समझौता हो गया है जिसकी अनुपालना में 19-10-89 को नियोजक ने एक पत्र प्रसारित किया था, जिसकी फोटो प्रति प्रबंध एम-1 पेश की गई है जिसके अनुसार भी सेवामुक्त कर्मचारियों को नहीं लिया जा सकता। मैं नियोजक प्रतिनिधि के उक्त तर्क से सहमत नहीं हूँ क्योंकि तथ्यांकित समझौता तथा उसके अन्तर्गत जारी पत्र प्रबंध एम-1 से इस श्रमिक की सेवा मुक्ति के विवाद का निपटारा नहीं किया जा सकता। यह विवाद किसी कर्मचारी संघ द्वारा नहीं उठाया गया है बल्कि श्रमिक ने स्वयं ने अपनी सेवा मुक्ति का विवाद उठाया है तथा संबंधित सरकार द्वारा निर्देश पठाने के उपरान्त कर्मचारी संघ इस विषय में कोई समझौता नियोजक से करने में सक्षम नहीं था। तथा कथित समझौते में भी इस कर्मचारी के विवाद बाबत कोई उल्लेख नहीं है। अतः प्रत्येक दृष्टिकोण से परखने पर सेवा मुक्त आदेश कायम नहीं रखा जा सकता, जिसे अपास्त किया जाता है और श्रमिक रमा शंकर को दैनिक वेतन भोगी पीओन के पद पर नियोजित घोषित किया जाता है। उसको सेवा की निरन्तरता कायम रखी जाती है और उसे 15-8-87 से उक्त पद का वेतन व अन्य सभी लाभ दिनामे जाते हैं। 100/- रुपये खर्च मुकदमा भी दिलाया जाता है। नियोजक अंदर तीन माह उक्त राशि भरा नहीं करेगा तो 12 प्रतिशत प्रति वर्ष की दर से व्याज भी देना पड़ेगा।

11. उक्त आशय का अवाई पारित किया जाता है जो भारत सरकार को प्रकाशनाथ नियमानुसार भेजा जाये।

जगत निह, न्यायाधीश

[सं. एन-12012/882/88-डी-2(ए)]

का. आ. 261.-- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ोदा के प्रबन्धन के संबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 261.--In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Bank of Baroda and their workmen, which was received by the Central Government on 1-1-1992.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 46 / 1991

रैफर्स . भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश

अर्थात् एल 12012 / 119/91 आई आर बी दि. 29-9-91

श्री बी. एल. बैरवा मार्केट जनरल सेवेन्टी बैंक आफ बड़ोदा कर्मचारी यूनियन, जयपुर।

प्रार्थी

बनाम

बैंक आफ बड़ोदा, जयपुर।

अप्रार्थी

उपस्थित

माननीय न्यायाधीश श्री जगतसिंह, आर. एच. जे. एस.

प्रार्थी की ओर से
अप्रार्थी की ओर से
विनांक अर्थात्:

कोई हाजिर नहीं
कोई हाजिर नहीं
22-10-1991

अर्थात्

फर्ग्युसन की ओर से कोई हाजिर नहीं है। आज यह केस यूनियन की ओर से स्टेटमेंट आफ क्लेम पेश करने हेतु नियुक्त था किन्तु ना तो कोई क्लेम पेश हुआ है और ना ही कोई उपस्थित आया ऐसा लगता है कि यूनियन अब इस मामले में कोई रुचि नहीं रखती है। अतः इस प्रकरण में नो डिस्पूट अर्थात् पारित किया जाता है जो भारत सरकार को नियमानुसार प्रकाशनार्थ भेजा जाये।

जगत सिंह, न्यायाधीश

[सं. एल 12012/119/91 डी - 2 (ए)]

का. आ. 262.-- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबन्धन के संबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 262.--In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Punjab National Bank and their workmen, which was received by the Central Government on 1-1-1992,

91 GI/92—6

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण जयपुर

केस नं. आई. टी. 61/90

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना

सं. एल. 12012/11/90 आई आर सी-11 दि. 29-8-90

श्री हरी प्रसाद पुत्र श्री हनुमान प्रसाद रेजिडेंट आफ

वार्ड नं. 31 सीकर, राजस्थान

बनाम

डा.च भूतेश्वर, पंजाब नेशनल बैंक, सीकर,

रोजतल मैनेजर, पंजाब नेशनल बैंक श्रीगंगानगर

उपस्थित

श्रमिक पक्ष की ओर से

कोई हाजिर नहीं

नियोजक पक्ष की ओर से

श्री के. एन. द्विवेदी

विनांक अर्थात्

29-8-91

अर्थात्

श्री के. एन. द्विवेदी विभागीय बैंक की ओर से उपस्थित हैं। प्रार्थी की ओर से कोई हाजिर नहीं है प्रार्थी को विनांक 29-10-90 से निरन्तर क्लेम पेश करने का अवसर दिया जा रहा है। अब समय पड़ा जाता उपस्थित नहीं है ऐसा प्रतीत होता है कि इस प्रकरण में प्रार्थी रुकी नहीं ले रहा है और न ही क्लेम पेश कर रहा है अतः इस प्रकरण में नो डिस्पूट अर्थात् पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

जगत सिंह, न्यायाधीश

[सं. एल. 12012 / 11/90 डी - 2 (ए)]

नई दिल्ली, 9 जनवरी, 1992

का. आ. 263.-- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक आफ इन्डिया के प्रबन्धन के संबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

New Delhi, the 9th January, 1992

S.O. 263.--In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Central Bank of India and their workmen, which was received by the Central Government on 1-1-1992.

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 88/89

केन्द्रीय सरकार श्रम मंत्रालय की अधिसूचना संख्या

एल 12012/132/89 डी-2 (ए) दिनांक 19-8-89

राज. बैंक एम्प्लॉयज यूनियन अजमेर

बनाम

सेंट्रल बैंक आफ इन्डिया, जयपुर

उपस्थित

श्रमिक पक्ष की ओर से

श्री सी. डी. अतुर्वेदी

नियोजक पक्ष की ओर से

श्री डी. एन. शर्मा

विनांक अर्थात्

9-4-91

अर्थात्

श्री सी. डी. अतुर्वेदी यूनियन की ओर से तथा श्री डी. एन. शर्मा बिजली की ओर से उपस्थित हैं श्री अतुर्वेदी ने एक समझौता

पेश कर आहिर किया कि इस प्रकरण में आगे कार्यवाही नहीं करना चाहते हैं। अतः इस प्रकरण में नो डिस्पूट अवार्ड पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

जगत सिंह न्यायाधीश
[सं. एल. 12012/132/89 अं. - 2 (ए)]

का. छा. 264—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधक के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-1992 को प्राप्त हुआ था।

S.O. 264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on 1-1-1992.

अनुबन्ध
केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर
केस नं. सी. आई. बी. 17/90

केन्द्र सरकार अथम मंत्रालय की अधिसूचना संख्या :
एल. 17011/39/89—आई. आर. (बी)—वि. 15-2-90
गुर्गलाल सुपूत श्री धाधुराम प्रजापति गा बंध पो
सेलमपुर पठानों की जिला सवाईमाछोपुर

बनाम
प्रभाषीय प्रबंधक, भारतीय जीवन बीमा निगम,
जयपुर।

उपस्थिति

अधिक पक्ष की ओर से : कोई हाजिर नहीं
नियोजक पक्ष की ओर से : श्री एम. डी. अग्रवाल
दिनांक अवार्ड : 23-4-91

अवार्ड

श्री एम. डी. अग्रवाल विपक्षी की ओर से उपस्थित हैं। प्रार्थी की ओर से कोई हाजिर नहीं इस कार्य अग्रक्रम लिखे जाने के बाद श्रीमति भाया बंसल प्रार्थी की ओर से हाजिर आई श्रीमति बंसल आज भी बलेम पेश करने के लिए अवसर चाहती हैं। प्रार्थी को दिनांक 9-4-90 से निरंतर समय दिया जा रहा है अब समय दिया जाना उचित नहीं है अतः इस प्रकरण में नो डिस्पूट अवार्ड पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

जगत सिंह, न्यायाधीश
[सं. एल. 17011/39/89 अं. - 2 (ए)]

का. छा. 265 - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू इण्डिया एश्योरेंस कम्पनी लि. के प्रबंधक के संबंध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-1-92 को प्राप्त हुआ था।

S.O. 265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of New India Assurance Company Limited and their workmen, which was received by the Central Government on 1-1-1992.

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी. आई. टी. 134/89

रैफ़रेंस : भारत सरकार, अथम मंत्रालय नई दिल्ली का आदेश क्रमांक

एल. 17011/37/89 आई. आर. (बी) वि. 4-12-89

श्री किणन गोपाल धानवी पुत्र श्री मदन गोपाल धानवी जाति
ब्राह्मण निवासी मूखों की गली नव चौकिया जोधपुर (राजस्थान)
प्रार्थी

बनाम

1. एरिया मैनेजर, श्री न्यू इण्डिया एश्योरेंस कम्पनी लि., गुलाब
भवन (विछली बिल्डिंग) 6, बहादुर शाह जकर मार्ग
नई दिल्ली।

2. डिवीजनल मैनेजर, श्री न्यू इण्डिया एश्योरेंस कम्पनी लि.
465, छात्रा रोड, सवाईपुरा, जोधपुर (राज.)
डिवीजनल मैनेजर, श्री न्यू इण्डिया एश्योरेंस कम्पनी लि.
पो. बाक्स नं. 193, संगार, चन्द्र रोड, जयपुर
(राज.)

अप्रार्थीगण

उपस्थित

माननीय न्यायाधीश जगतसिंह जी. आर. एच. जे. एम
प्रार्थी की ओर से : श्री राजेन्द्र शर्मा
अप्रार्थी की ओर से : श्री मान सिंह
दिनांक अवार्ड : 22 नवम्बर, 1991

अवार्ड

केन्द्र सरकार, अथम मंत्रालय नई दिल्ली ने अपने उपरोक्त आदेश द्वारा निम्न विवाद इस न्यायाधिकरण को वास्ते अधिनियम औद्योगिक विवाद अधिनियम, 1947 की धारा 10(1)(क) के अंतर्गत प्रेषित किया है।

"Whether the action of the management of New India Assurance Company Ltd., Jaipur in terminating of services of Shri Krishna Gopal Thanfi, Junior Inspector w.e.f. 19-10-1981 is justified? If not, to what relief the workman concerned is entitled?"

अप्रार्थी द्वारा एप्लेंट के रूप में जयपुर क्षेत्र के अन्तर्गत की गई थी। उसके कार्य से संन्यत होकर अप्रार्थी ने 15-12-78 को उसे बीकानेर क्षेत्र के इंस्पेक्टर के अधीन जूनियर इंस्पेक्टर के पद पर नियुक्त किया जिस पद पर उसने 19-12-78 से कार्य करना शुरू कर दिया। तत्पश्चात् 10-1-79 को अप्रार्थी सं. 1 ने एक पत्र जारी किया जिसके अनुसार 18-12-78 से प्रार्थी की नियुक्ति जूनियर इंस्पेक्टर के पद पर मानते हुए उसे एक वर्ष के प्रोबेशन काल पर रखा गया तथा वह केवल नौन ट्रेडिशनल बिजनेस (एन.टी.बी.) ही कर सकता था और प्रोबेशन काल में उसे 250 रु. प्रति माह ही एग्राई फण्ड के रूप में दिया जाता था जिसमें से सी.पी.एफ. और कैमिनी पेंशन की कटौती 10 रुपये प्रति माह होती थी तत्पश्चात् 5-9-79 के पत्र द्वारा उसे 50 रुपये प्रति माह कम्प्लीट अवार्ड भी दिया गया। प्रार्थी का कहना है कि हालांकि उसने 18-12-78 से 17-12-79 तक संतोषक कार्य किया था और अपने टारगैट पूरे कर लिये थे फिर भी 9-2-80 के पत्र द्वारा 25-2-80 से उसकी सेवाएं समाप्त कर दी तथा प्रोबेशन कार्य में टारगैट पूरे नहीं करना बताया गया। प्रार्थी ने उक्त आदेश के विरुद्ध अपील प्रस्तुत की और उक्त अधिकारियों को सही तथ्यों में अवगत कराया इसलिए

23-4-80 के आदेश द्वारा उसकी सेवा समाप्त कर दी गई और उसे जूनियर इंस्पेक्टर के पद पर पुनः नियुक्त कर दिया गया जिसका अनुपालन में 5 मई, 1980 को प्रार्थी ने पुनः कार्य करना प्रारम्भ कर दिया। 28 फरवरी, 1980 से 4 मई, 1980 तक का प्रार्थी का कार्यकाल बिना वेतन माना गया। प्रार्थी का कहना है कि 26-5-81 के पत्र द्वारा अप्रार्थी स. 1 ने प्रार्थी को 05 मई, 1980 से 4 मई, 1981 तक की अवधि के लिए प्रोबेशन काल बढ़ा दिया और उसका वेतन 500- रुपये प्रति माह कर दिया जिससे से 25 रुपये प्रति माह वा.एफ. व फौमला पेन्शन को कटौतियाँ भी होती थीं। प्रार्थी कहता है उसने 5 मई, 1980 से 4 मई, 1981 तक बढ़ाये हुए प्रोबेशन काल में भी पूरा टारगेट दिया और संतोषजनक कार्य किया तथा 4 मई, 1981 से उसका सेवा का कन्फर्मेशन होना था जिस बावत अप्रार्थीगण ने उसे मौखिक रूप से आश्वासन भी दिया था। 4 मई, 1981 के उपरान्त भी प्रार्थी जूनियर इंस्पेक्टर के पद के नियमित रूप से कार्य कर रहा था परन्तु अप्रार्थी स. 1 ने 30-9-81 के आदेश द्वारा 19-10-81 से प्रार्थी का सेवाएं समाप्त कर दी जिसके द्वारा भी यह बताया कि बढ़े हुए प्रोबेशन काल में भी प्रार्थी ने अपने टारगेट पूरे नहीं किये हैं। प्रार्थी श्रमिक कहता है कि उसने अप्रार्थी के यहाँ 18-12-78 से 19-10-81 तक लगातार कार्य किया है परन्तु फिर भी उसे 19-10-81 को सेवा पृथक् करने समय न तो एक माह का नोटिस दिया, न नोटिस के एज में एक माह का वेतन दिया यहाँ तक कि छंटनी का भुआवजा भी नहीं दिया। निर्वाचक द्वारा एक माह का नोटिस वेतन तो 3 जनवरी, 1982 को दिया गया है जो कानून 19-10-81 का ही देना अपेक्षित था। श्रमिक कहता है कि उसने 19-10-81 के आदेश के विषय भी अपील प्रस्तुत की थी परन्तु वह अपील की कार्यवाही भी इंतजार में करता रहा और अनेकों बार रजिस्टर्ड पत्रों द्वारा भी सम्पर्क स्थापित किया परन्तु उसे मौखिक आश्वासन दिया गया कि उसकी सेवाएं पुनः बहाल कर दी जावेंगी। अंतो-गस्वा अपील पर जब कोई कार्यवाही नहीं हुई तो दिसम्बर, 1988 में समझौता चर्चा प्रारम्भ की गई। श्रमिक कहता है कि समझौता अधिकारों के समक्ष नियोजक का कथन था कि वह धारा 2-एच के अनुसार श्रमिक की परिधि में नहीं आता क्योंकि वह इंस्पेक्टर के पद पर कार्यरत था। इस विषय में भी श्रमिक ने अपने क्लेम में दर्ज किया है कि वह कभी भी इंस्पेक्टर के पद पर नियोजित नहीं रहा न ही कार्यरत रहा बल्कि 18-12-78 से 19-10-81 से जूनियर इंस्पेक्टर के पद पर कार्यरत था जिस तथ्य की अप्रार्थीगण भी अच्छा तरह से जानते थे। श्रमिक के अनुसार इंस्पेक्टर के पद व जूनियर इंस्पेक्टर के पद में बहुत अन्तर होता है तथा नियोजक ने अपने सभी आदेशों में श्रमिक को जूनियर इंस्पेक्टर ही उल्लेख किया है और उस पद का कार्य श्रमिक से करवाया है। श्रमिक की प्रार्थना है कि 30-9-81 का सेवा नापित का आदेश निरस्त किया जावे तथा निरन्तर सेवा में बहाल करने हुए वेतन सहित सभी लाभ विसाये जावें।

3. अप्रार्थीगण ने जरिये संयुक्त प्रत्युत्तर प्रारंभिक आपत्ति प्रस्तुत प्रार्थी द्वारा 2(एस) के अनुसार कर्मकार की परिधि में नहीं आता। उसके द्वारा धारित पद इंस्पेक्टर के समकक्ष पद था जो पद विपक्षीगण के यहाँ संकण्ड क्लास आफिसर का श्रेणी में आता है इसलिये विवाद चलने योग्य नहीं है। नियोजक यह भी कहता है कि 30-9-81 के आदेश द्वारा सेवा समाप्त की गई थी जिसके करीब सात वर्ष बाद यह विवाद सर्वप्रथम उठाया गया है इसलिये मियाद बाहर होने से चलने योग्य नहीं है। नियोजक के अनुसार श्रमिक ने प्रोबेशन पोरियड में अपने टारगेट पूरे नहीं किये और उसका कार्य संतोषजनक नहीं रहा तथा निम्नलिखित शर्तों के मुताबिक उसने लाइसेन्सियेट/इंस्पेक्ट्री परीक्षा पास नहीं की इसलिये उसकी सेवा मुक्ति छंटनी की परिभाषा में नहीं आती है। गुणावगुण पर नियोजक का कहना है कि प्रार्थी की नियुक्ति 10-1-79 के आदेश द्वारा जूनियर इंस्पेक्टर के पद पर हुई थी और 18-12-78 प्रस्तावित माना गई। प्रोबेशन काल में उसे 250 रुपये स्टार्टिंग मिलता था और 35,000 रुपये का एक वर्ष में उसे नेशनल ट्रेडिंग

बिजनेस (एन.टी.बी.) देना था साथ ही लाइसेन्सियेट इंस्पेक्ट्री की परीक्षा भी पास करना अनिवार्य था। प्रोबेशन अवधि में उसका कार्य संतोषजनक नहीं रहने से ही उसे सेवा मुक्त किया गया जिस पर विभागीय अपील में उनके प्रति सहानुभूतिपूर्ण रख अपनाकर पुनः नियुक्ति की गई और 5-5-80 से 4-5-81 तक उसका प्रोबेशन पोरियड बढ़ाया गया जिस दौरान प्रार्थी श्रमिक को 20,000 रुपये का नेशनल ट्रेडिंग बिजनेस व 30,000 रुपये का ट्रेडिंग बिजनेस का लक्ष्य पूरा करना था। जो प्रार्थी श्रमिक ने पूरा नहीं किया। प्रार्थी द्वारा 63,000 रुपये का प्रीमियम टारगेट अर्जित करना गलत है, उस राशि में 20,000 रुपये की राशि की प्रीमियम राशि जो सेन्ट्रल कोम्पार्टेक्ट बैंक बीकानेर के केबल मास्टर पालिसी के अधीन दिये गये बिजनेस से संबंधित थी। वह बिजनेस प्रार्थी के किसी प्रयास का परिणाम नहीं था अपितु संबंधित बिजनेस आफिस के अधिकारियों के अपने प्रयास से वह बिजनेस कम्पनी की मिला था। इस बिजनेस प्रीमियम का क्रेडिट प्रार्थी नहीं ले सकता। श्रमिक का कार्य प्रोबेशन के दौरान संतोषजनक नहीं रहा जिस बावत पत्र दिनांक 30-7-80, 28-11-80, 10-12-80, 26-12-80, 2-1-81, 11-2-81 तथा 13-2-81 द्वारा श्रमिक को सूचित कर दिया गया था कि उसने बिजनेस टारगेट पूरा नहीं किया और न ही लाइसेन्सियेट इंस्पेक्ट्री की परीक्षा पास का फनक्चर 30-9-81 के आदेश द्वारा श्रमिक की सेवा समाप्त कर दी गई। नियोजक के अनुसार प्रार्थी को बीकानेर आफिस द्वारा 5-11-81 को नोटिस वेतन आफर किया गया था परन्तु उसने देने से इंकार कर दिया इसलिये कोटा आफिस से प्रार्थी को बीकानेर के पते पर 10-11-81 को रजिस्टर्ड ए.डी. द्वारा नोटिस वेतन के 500/- रुपये का डाफ्ट भेजा गया जो राशि वापस आ गई इस पर जयपुर आफिस द्वारा 31-12-81 को जयपुर के पते पर प्रार्थी को 500/- रुपये नोटिस वेतन के व 152/- रुपये बोनस के भेजे गये जो उसे 3-1-82 को प्राप्त हो गये। प्रार्थी की कमी भी कोई आश्वासन नहीं दिया गया और उसकी सेवा समाप्ति नियुक्ति गतों के मुताबिक की गई है इसलिये वह किन्हीं अनुत्तम का अधिकारी नहीं है।

4. प्रार्थी द्वारा अप्रार्थीगण की प्रारंभिक आपत्तियों का जवाब जवाब भी प्रस्तुत किया गया है जिसके अनुसार भी उसने स्वयं को कर्मकार की श्रेणी में आने का ही उल्लेख किया है कि वह सबसे कम वेतन प्राप्त करने वाला कर्मचारी था, उसका कार्य साधारण बीमा व्यवसाय का विकास करना था जो प्रबंध की परिभाषा में नहीं आता, उसे राशि आहरण एवं वितरण करने का अधिकार नहीं था न ही किसी कर्मचारी का नियुक्ति के लिये वह अधिकृत था और वारा 25-एफ कर्मचारियों की पालना किये बिना उसका सेवा मुक्ति की गई है जो स्वतः ही अनुचित एवं अवैध है। प्रार्थी के अनुसार उसने प्रोबेशन काल तक निर्धारित टारगेट पूरा किया था, बीकानेर सेन्ट्रल कोम्पार्टेक्ट बैंक से 20,000 रुपये प्रीमियम की केबल मास्टर पालिसी की राशि उसी के प्रयासों से प्राप्त की गई थी।

5. अपने कथनों का साबित करने के लिये प्रार्थी श्रमिक ने स्वयं का जय पत्र पेश किया है जिससे नियोजक प्रतिनिधि ने जिरह की है और प्राथमिक साक्ष्य में प्रदर्शित डब्ल्यू-1 लगायत डब्ल्यू-12 फोटो प्रतियाँ पेश हुई हैं। इसके विपरीत नियोजक को नरक से डी.यू.के. प्रधान बरिष्ठ मण्डल प्रत्यक्ष ने जय पत्र पेश किया है जिससे श्रमिक प्रतिनिधि ने जिरह की है और प्राथमिक साक्ष्य में एम-1 लगायत एम-25 फोटो प्रतियाँ पेश हुई हैं, तत्पश्चात् मैने पत्रावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तार पूर्वक सुना।

6. नियोजक का प्राथमिक आपत्ति यह है कि प्रार्थी तत्काल क्लास आफिसर की श्रेणी में आता है उसका पद इंस्पेक्टर के पद के समकक्ष था इसलिये वह धारा 2(एस) के अन्तर्गत कर्मकार की श्रेणी में नहीं आता है। उक्त तथ्य को साबित करने के लिये नियोजक की

तरफ से श्री यू.के. प्रधान का ही शपथपत्र पेश हुआ है जिसने भी अपने शपथपत्र में नाम मात्र का भी कथन नहीं किया कि श्रमिक का जूनियर इंस्पेक्टर का पद इंस्पेक्टर के पद के समकक्ष था अथवा श्रमिक का पद सैकण्ड क्लास आफिसर की श्रेणी में आता हो। यह उल्लेखनीय है कि पदनाम से ही यह निष्कर्ष नहीं निकाला जा सकता कि श्रमिक व्यक्ति को मुख्यतः प्रशासकीय एवं प्रबन्धकीय अधिकार प्राप्त थे अथवा नहीं बल्कि उसके लिये तो नियोजक को ही साबित करना था। यह उल्लेखनीय है कि नियोजक ने न तो क्लेम के प्रस्तुत में यह दर्ज किया है कि श्रमिक को बतौर जूनियर इंस्पेक्टर क्या-क्या अधिकार थे और नहीं नियोजक के साथी श्री यू.के. प्रधान ने इस विषय में कुछ कथन किया। जब प्रार्थी ने क्लेम की चरण सं. 10 में ही यह दर्ज कर दिया था कि उसका पद इंस्पेक्टर के पद के समकक्ष नहीं था और नहीं उसे ऐसे कोई अधिकार प्राप्त थे जो प्रशासकीय या प्रबन्धकीय श्रेणी में आते हों तो नियोजक का यह उत्तरदायित्व बन जाता था और उसे क्लेम के उत्तर में ही यह स्पष्ट करना अपेक्षित था कि प्रार्थी को जो अधिकार प्राप्त थे वे क्या थे, और उनकी प्रकृति प्रशासकीय अथवा प्रबन्धकीय श्रेणी की थी। यह उल्लेखनीय है कि प्रार्थी श्री किशन गोपाल धानवी ने अपने शपथपत्र में दर्ज कर दिया था कि उसे अगस्त 1971 से बीमा एजेंट के रूप में नियुक्त किया था तथा 15-12-78 के आदेश द्वारा उसे जूनियर इंस्पेक्टर के पद पर नियुक्त किया था जिस पद पर वह 28-2-80 तक रहा और उसे प्रारंभ में 250 रुपये प्रति माह तथा तत्पश्चात् 500 रुपये प्रति माह होस्टाईपण्ड दिया जाता था तथा वह आफिसर श्रेणी में नहीं आता था फिर भी नियोजक को तरफ से प्रति परीक्षा में उससे ऐसे प्रश्न नहीं किये गए जिससे यह प्रकट होता हो कि प्रार्थी द्वारा किया गया कार्य प्रशासकीय अथवा प्रबन्धकीय श्रेणी में आता हो। नियोजक साक्षी श्री यू.के. प्रधान ने भी प्रति-परीक्षा में स्वीकार किया है कि श्रमिक को किसी की नियुक्ति करने का अधिकार नहीं था तथा ड्राईंग व डिस्चार्जिंग पावर भी नहीं थी। अतः उपरोक्त समस्त कारणों से साक्ष्य के अभाव में नियोजक द्वारा की गई प्रारंभिक प्राप्ति का निर्णय अप्रार्थीगण के विरुद्ध किया जाता है और प्रार्थी का काय धारा 2(एस) अधिनियम के अन्तर्गत कर्मकार की श्रेणी में ही माना जाता है।

7. अप्रार्थी का यह भी कहना है कि प्रार्थी ने निर्धारित टारगेट पूरे नहीं किये उसे 5-5-80 से 4-5-81 तक की अवधि में 50,000 रुपये के प्रीमियम का टारगेट पूरा करना था जिसमें 20,000 रुपये नान-ट्रेडीशनल बिजनेस और 30,000 रुपये ट्रेडीशनल बिजनेस के करने थे। प्रार्थी ने क्लेम के अनुसार ही अपने शपथपत्र में भी व्यक्त किया है कि उसने निर्धारित टारगेट पूरा कर लिया था और 50,000 रुपये लक्ष्य के स्थान पर 72,000 रुपये का बिजनेस बचाया था। प्रति परीक्षा में भी प्रार्थी कहता है कि यह गलत है कि सेंट्रल कोऑपरेटिव बैंक बीकानेर का 20,000 का बिजनेस श्री एस.एन. मयवाल द्वारा बुक किया गया हो बल्कि मेरे द्वारा ही बुक किया गया था। नियोजक साक्षी श्री यू.के. प्रधान प्रति-परीक्षा में स्वीकार करता है कि 5-5-80 से 4-5-81 तक धानवी ने 48,000 का काम किया था जिसमें सेंट्रल कोऑपरेटिव बैंक का 20,000 शामिल नहीं है क्योंकि यह उसके द्वारा या उसके एफंट से नहीं आया। डब्ल्यू-13 कवर नोट भी रिसीद 20,000 से संबंधित है इस पर भी धानवी के हस्ताक्षर नहीं हैं बल्कि जे.पी. पाल के दस्तखत हैं। डब्ल्यू-14 कवर नोट भी जे. पी. पाल ने ही जारी किया है इस पर धानवी के काउंटर सिग्नेचर्स हैं। साक्षी के अनुसार डब्ल्यू-13 व डब्ल्यू-14 से स्थिति साफ नहीं होती क्योंकि दोनों पर दस्तखत जे. पी. पाल के हैं और इंस्पेक्टर कोड पर ओवर राईटिंग हो रही है। जे.पी. पाल का कोड नं. 199 था और प्रार्थी श्रमिक का 497 था। डब्ल्यू-15 के अनुसार 20,000 का प्रीमियम गिफ्ट करने का कोई प्रावधान नहीं था। मैंने उपरोक्त मौखिक साक्ष्य के अलावा प्रालेखिक

साक्ष्य का भी अध्ययन व मनन किया तो पाया कि डब्ल्यू-13 व डब्ल्यू-14 पर ओवर राईटिंग हो रही है। यह प्रलेख श्रमिक द्वारा पेश किया गया है इसलिए इस प्रलेख से श्रमिक को कोई लाभ नहीं मिलता। और इससे यह भी साबित नहीं है कि डब्ल्यू-13 व डब्ल्यू-14 के द्वारा 20,000 प्रीमियम की राशि का व्यवसाय श्रमिक द्वारा प्राप्त किया गया हो। अतः अभिलेख पर यह साबित है कि श्रमिक ने निर्धारित टारगेट पूरा नहीं किया था। निविवाद रूप से लाइसेंसींग परीक्षा भी पास नहीं की थी परन्तु इससे श्रमिक को कोई हानि नहीं होती क्योंकि चाहे प्रोबेशन काल में श्रमिक का काम संतोषजनक नहीं रहा हो, श्रमिक ने 240 दिवस की सेवा अवधि पूरी कर ली थी। इसलिए सेवा समाप्ति के साथ उसे धारा 25-एफ के प्रावधानों को लाभ देना अपेक्षित था जो निविवाद रूप से उसे नहीं दिया गया इसलिए कनाटका रोड ट्रांसपोर्ट कारपोरेशन बनाम शेख अब्दुल खतेर 1984 (48)IFLR/1989 पर उपलब्ध उच्चतम न्यायालय के न्याय वृष्टान्त के अनुसार यह श्रमिक भी धारा 25-एफ के प्रावधानों के लाभ का अधिकारी था। श्रमिक की सेवा मुक्ति के समय धारा 25-एफ के प्रावधानों के अनुसार न तो उसे एक माह के नोटिस के एवज में एक माह का वेतन दिया गया और न ही छंटनी का मुआवजा, इसलिए सेवा मुक्ति आदेश अपाल किया जाता है और इस निर्देश का अधिमिर्ण्य निम्न प्रकार किया जाता है:—

“श्री कृष्ण गोपाल धानवी, जूनियर इंस्पेक्टर की 19-10-81 से की गई सेवा मुक्ति उचित एवं वैध नहीं है और इसे जूनियर इंस्पेक्टर के पद पर नियोजित घोषित किया जाता है। श्रमिक की सेवा मुक्ति 19-10-81 को की गई थी और समझौता वार्ता में यह नवम्बर 1988 में गया था इसलिए 19-10-81 से नवम्बर, 1988 तक की अवधि का वेतन उसे नहीं दिया जाता है। परन्तु उक्त अवधि भी उसके सेवा काल में शुमार की जाएगी तथा श्रमिक को उसका नॉशनल फिक्सेशन में व अन्य भी मामले में लाभ दिया जाएगा। उसकी सेवा की निरंतरता कायम रखी जाते हैं। अप्रार्थी के प्रतिनिधि ने यह जाहिर किया कि अप्रार्थी संस्थान में अब उक्त पद नहीं है व यह पद समाप्त किया जा चुका है अतः आदेश दिया जाता है कि उक्त पद न होने की स्थिति में प्रार्थी, श्रमिक को उसके समकक्ष किसी पद पर नियुक्त किया जावे। नियोजक तीन माह के अंदर उक्त बकाया राशि श्रमिक को भुगत कर देना अथवा 12 प्रतिशत प्रति वर्ष की दर से ब्याज देना पड़ेगा।”

8. उक्त आशय का अर्बाई पारित किया जाता है जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जाएगा।

जगत सिंह, पीठासीन अधिकारी

[सं. एल-17011/37/89-डी-2(ए)]

का.धा. 266 --- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुच्छेद में, केन्द्रीय सरकार जीवन बीमा निधम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निविद ओद्योगिक विवाद में औद्योगिक अधिकरण जयपुर को पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 1-1-92 को प्राप्त हुआ था।

S.O. 266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. रा.आई.टी. 134/89

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या :

एन 17011/24/89-आईआर (अंश-1) वि. 6-12-89

नरेश कुमार शर्मा बुर्लागेट, नं. 2 (स्कूल के सामने)

जयपुर सिटी, मराई माधोपुर।

वताम

वरिष्ठ संचल प्रबंधक, जीवन क.मा निधम, जीवन प्रकाश,
जयपुर।

उपस्थित

श्रमिक पक्ष की ओर से :

निर्वाहक पक्ष की ओर से :

दिनांक अर्थात्

श्रमता माया संमेल

श्री एम. डा. अग्रवाल

9-4-91

अर्थात्

श्रमता माया संमेल प्राथी की ओर से तथा एन. डी. अग्रवाल विपक्षी की ओर से उपस्थित हैं आज श्रमता संमेल समारोहों के समय दिया जाना उचित नहीं है प्राथी को दिनांक 28-3-90 से निरन्तर समय दिया जा रहा है ऐसा प्रतीत होता है कि प्राथी इस प्रकरण में रुचि नहीं ले रहा है अतः इस प्रकरण में नोटिस्स्यूट रुकाई पास किया जाता है। केन्द्रीय सरकार केवास्ते प्रकाशनार्थ भेजा जाये।

जगत सिंह, स्यादधीश

[सं. एन-17011/24/89-डी-2(ए)]

का. प्र. 267.--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक प्रबंधक के संबंध निर्यातकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 267.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Punjab National Bank and their workmen, which was received by the Central Government on 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 25/91

रेफरेंस भारत सरकार श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक

एन-12012/429/90 आई. आर. डी./दिनांक 5-4-91

श्री बाबू लाल कर्क-कम-जीनियर मार्फत महामन्त्रि, राजस्थान

बैंक वर्कर्स आरगेनाइजेशन, कोटा।

--प्राथी

वताम

क्षेत्रीय प्रबंधक, पंजाब नेशनल बैंक, भरतपुर।

--अप्राथी

उपस्थित

माननीय न्यायाधीश श्री जगतसिंहजी, आर.एन.जे.एम.

यूनिथन की ओर से :

बैंक की ओर से :

दिनांक अर्थात् :

आर. सी. जैन

कोई हाजिर नहीं

16-11-1991

अर्थात्

प्राथी यूनिथन की ओर से श्री आर. सी. जैन उपस्थित हैं, विपक्षी की ओर से कोई हाजिर नहीं है। श्री जैन क्लेम पेन करने के लिए समय चाहते हैं किंतु अब समय दिया जाना उचित नहीं है अतः इस प्रकरण में नोटिस्स्यूट अर्थात् पारित किया जाता है जो केन्द्रीय सरकार को वास्ते प्रकाशन नियमानुसार भेजा जाये।

जगत सिंह, पोस्टमैन अधिकारी

[सं. एन. 12012/429/90-डी. 2(ए)]

का. प्र. 268 --औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रीय सरकार केंद्र बैंक के प्रबंधक के संबंध निर्यातकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 3-1-92 को प्राप्त हुआ था।

S.O. 268.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Mgt. of Canara Bank and their workmen, which was received by the Central Government on 3-1-92.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 133 of 1988

In the matter of dispute between :

Shri Vijay Kumar Gupta C/o Sh. V. N. Sekhari 26|104
Birhana Road, Kanpur.

AND

The Assistant General Manager Canara Bank Hanuman
Road, Parliament Street, New Delhi.

APPEARANCES :

Shri V. K. Gupta, authorised representative for the
Workman & S. Amreck Singh authorised represen-
tative for the Management.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/839/87-D.II(A) dated 1-8-88 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Canara Bank in dismissing Shri Vijay Kumar Gupta from the service of the bank is justified ? If not, to what relief the concerned workman is entitled ?

2. The admitted facts are that while the workman was posted at Kheragarh Branch as Special Assistant of the Bank, he was served with chargesheet dated 12-9-90 copy Ext. M-12 and put under suspension the same day. The first charge was that as Supervisor of the D. B. Department he was in possession of D. D. Book bearing nos. 850001 to 850100 and out of the said D. D. Book D. D. No. 850099 and 850100 were unauthorisedly removed and on the strength of these two DDs a sum of Rs. 1,00,000/- were fraudulently withdrawn, and he thereby failed to exercise proper care in discharging his duties. Secondly he was charged that during his working at Kheragarh Branch since 16-10-78 some D.D. leaves and some branch advices had been unauthorisedly and surreptitiously removed from the branch with an intention to defraud the bank and that the removal of the said DDs and branch advices was either by him or he caused them to be removed.

3. On the basis of the first charge he was said to have committed gross misconduct within the meaning of Regulation (3) of Clause (i) & (m) Chapter XI of Canara Bank Service Code and on the basis of second charge he was said to have committed gross misconduct within the meaning of Regulation (5) clause (i) and clause (m) of Chapter XI of Canara Bank Service Code.

4. Before serving the chargesheet an inquiry into the matter regarding the missing DD leaves and branch advices and encashment of 4 DD leaves was held by Shri K. V. Krishna Murthy, an officer of the Bank who gave his reports dt. 1-1-80 to 1-11-80 copies Ext. M-13 and M-14 respectively. He found responsible, for the above fraud, the workman.

5. Shri S. Jayaraman, was appointed E. O. and he held the inquiry into the above charges. He gave his findings copy Ext. M-7 on 8-2-84. He found both the charges as proved against the workman. Thereafter he gave a notice to the workman to show cause why the punishment or dismissal from service be not recommended by him to the Disciplinary Authority on the basis of the findings recorded by him. At the time of hearing on 23-4-84, the defence representative submitted written submission finding no force in the submission the E.O. commended the notice and by means of his order dt. 11 copy Ext. M-9, he forwarded his findings to the Disciplinary Authority with the recommendation to dismiss from service. The disciplinary authority accepted both the findings and recommendation in respect of the punishment of the E.O. and awarded, by means of his order dt. 14-11-84, copy Ext. M-10, the punishment of dismissal from service to the workman. Against the order of punishment the workman filed an appeal which too was dismissed by the Appellate Authority vide his order dt. 20-11-85, copy Ext. M-20.

6. The order of punishment passed by the Disciplinary Authority and confirmed by the appellate authority in appeal has been assailed by the workman on a number of grounds. According to him the chargesheet issued to him was not a proper chargesheet. The charges levelled against him constitute minor misconduct and not gross misconduct. He has further alleged that the E.O. did not hold the inquiry fairly and properly in accordance with the principle of natural justice. He was biased against him. During the inquiry the E.O. also played the role of prosecutor. In fact there was no legal evidence to support the findings recorded by the E.O. and subsequently accepted and confirmed by the disciplinary authority. He has further alleged that the E.O. and the Disciplinary authority was not properly appointed. He was singled out deliberately for inquiry and punishment. While employees responsible for all these bungling were left out. As regards punishment he alleges that it is shocking disproportionate to the gravity of the charges proved against him. Lastly he alleges that since the F.I.R. had been lodged against him it was neither proper nor legal for the management to hold an inquiry against him. The workman has, therefore prayed that the action of the management in dismissing him from service be declared null and void and he may be reinstated with full back wages and all consequential benefits.

7. The case is contested by the management. According to the management the chargesheet is not at all improper. It was issued on the basis of preliminary investigation conducted by the bank. The charges constitute gross misconduct and not minor misconduct. The inquiry was conducted fairly and properly in accordance with Canara Bank Service Code which is in conformity with the provisions of bipartite settlement. There is no force in the plea of the workman that there is no legal evidence to support the findings given by the E. O. The management also deny the plea raised by the workman that the E. O. and Disciplinary Authority and Appellate Authority were not properly appointed. There is no truth in the workman's allegations that he was singled out deliberately for the inquiry and punishment. In fact one more employee of the bank was chargesheeted and punished. Lastly, the management plead that since, on the basis of FIR the workman was not put on trial within one year, the management were competent to initiate the disciplinary proceedings against the workman. Towards the end, the man-

agement have pleaded that in case the Tribunal finds that the inquiry was not conducted fairly and properly the management should be given the right to prove the charges before this Tribunal.

8. A rejoinder has been filed by the workman but in this he has alleged no new facts.

9. On 23-1-90, the following preliminary issue was framed in the case—

Whether the Departmental inquiry was not conducted fairly and properly / if so, its effect ?

10. On the preliminary issue the workman has examined himself and the management examined Shri Jaya Raman, Divisional Manager, Green Park Extension Branch New Delhi.

11. In connection with the preliminary issue it has been argued by Shri V. K. Gupta, the authorised representative for the workman, that no Presiding Officer was appointed by the Disciplinary Authority under Regulation 8(c) of Chapter IX of Canara Bank Service Code for the purpose of conducting the case on behalf of the management. The result was that the inquiry officer acted both as prosecutor and judge, secondly he has submitted that the disciplinary authority before awarding the punishment of dismissal from service or the workman did not issue to him any show cause notice to him about the proposed punishment to be awarded. His plea as facts are was taken over by the E.O. This was illegal in as much as under law such powers cannot be delegated by the Disciplinary Authority to the E.O. No doubt such a provision exist in the Canara Bank Service Code, but this against the provisions of Bipartite Settlement on this point. Such a provision in the Canara Bank Service Code cannot supersede the provisions of Bipartite Settlement.

12. After making these two submissions in connection with the preliminary issue Shri Gupta has submitted that despite two above major defects in the conduct of the inquiry, the workman does not press these points and treat that the inquiry was conducted fairly and properly. The workman will however confined his case only on the point that the findings given by the E.O. and accepted and confirmed by the disciplinary authority & Appellate Authority are perverse. According to him it will not be improper if it is said that the E. O. did not apply his mind and the appellate authority uttered his findings in a routine manner, with a prejudice mind. The E.O. even went to the extent of falsely stating in page (1) of his inquiry report that the workman took charge of D.D. Department on 1-7-80, when admittedly he had taken charge of it on 2-7-80.

13. On the point that the findings are perverse Sh. Gupta, made a new submission. He has argued that there is absolutely no evidence that while taking over charge, the workman was given possession of the missing D.D. leaves and branch advices. There is absolutely no evidence that before taking over charge on 2-7-80 the workman had in any way any excess to the D. D. Books and branch advices. Secondly he submits that it is impossible to believe that the workman who took over charge on 2-7-80 of the D. D. Department would have been in a position to prepare forged D.D. dated 18-6-80 in respect of which the branch advice reached Aligarh Branch by post some time before 2-7-80. This is specially when the distance between Kheragarh Branch and Aligarh is about 125 Kilometres. Thirdly, he has submitted that from the two DDs in question one drawn on Aligarh Branch and the second drawn on Gwalior Branch and the branch advices issued in respect of these two DDs, it will be as clear as day that the writer of all these documents is one and the same person and that person is no other than Shri K. K. Varshnay who joined bank's service at Kheragarh Branch as a probationary clerk on 4-7-80. Fourthly there is no evidence that the workman was ever seen copying/practising the signatures of Shri T. C. Agarwal Accountant. Rather the preliminary investigation report dt. 9-9-80, copy Ext. M-13, will show that it was Shri Gurmit Singh who had been doing it all along. Before Shri K. V. Krishna Murthy, who conducted the preliminary inquiry the said Sri Gurmit Singh admitted that he had been practising the signatures of Shri T. C. Agarwal, of course, with the reservation that all this was being done by

him for the sake of fun. Fifthly he says that no reliance can be placed on the report of the hand writing expert so far as it attempts to implicate the workman. It is tailor made and has been prepared by hand writing expert to suit the whims of his masters i.e. the management. Lastly he submitted that it is 'no body's case that the said two DDs are Cashed by the workman himself.

14. From the side of the management the case has been argued by Sardar Amreek Singh. All that he could submit was that it was not the case of the management that the workman himself got the two DDs cashed. According to him the evidence led at the inquiry at least proves that it was the workman who got prepared from Shri K. K. Varshnay DD dated 4-7-80 for Rs. 50,000/- drawn in favour of one Shri Ram Prakash on Gwalior Branch. Sardar Amreek Singh, it is well known an intelligent legal advisor. However, during the course of arguments he did not try to elaborate his point nor tried to meet the arguments which were made by Shri Gupta in support of the pleas mentioned above and I think for that no finger can be raised against his conduct as he perhaps fully understood that there is no evidence in support of the findings.

15. At the inquiry the management examined MW-1 Shri R. Radhakrishnan Manager Kheragarh Branch, MW-2 Shri K. K. Varshnay and MW-3 Shri K. V. Krishna Murthy. Shri Radhakrishnan joined Kheragarh Branch as manager on 10-10-79 and Shri K. K. Varshnay joined as probationary clerk Kheragarh Branch on 4-7-80. As stated in the beginning Shri K. V. Krishna Murthy held the preliminary inquiry in the matter and gave two report one dated 9-9-80 and the second dt. 1-11-80. He supplemented the first report by means of his second report on the basis of the report of hand writing expert. He has proved these two reports in his evidence before the E.O.

16. Let us see what Shri K. V. Krishna Murthy has observed about the two DDs.

DD No. 850100 dt. 18-6-80 for Rs. 50,000/- drawn in favour one Shri Ram Prakash on Aligarh Branch :—

This D.D. was given serial no. 1033. With regard to this D.D. he noticed the following discrepancies—

- (a) The D.D. did not have the Serial Number in the usual manner i.e. instead of 1033/80 the D.D. was bearing only the serial number as 1033.
- (b) Originally IBM Number 1149 had been embossed with the Protectograph Machine which was meant for Ghaziabad Branch and subsequently the No. 364 has been written in hand which is IBM Number of Aligarh Branch. For this alteration there was a signature purported to be of Sri T. C. Agarwal. The identification card presented by the party was not in the usual form. The contents had been written on the back of Specimen Signature Card without addressing it to any specific branch. The front portion of the specimen card was blank with only a rubber stamp of Kheragarh branch. In respect of this D.D. branch advice bearing Sl. No. 459257 which was stolen, had been made use of. The name of clerk who had prepared this branch advice is written as Shri M. S. Bahl (29927). However it may be stated that the signature of Sri T. C. Agarwal on the DD and branch advice tallies in outward form and apparently no discrepancy could be noticed in branch advice as it was in our usual form.

(from page 2 of preliminary inquiry Report).

Then at page three he writes that the branch advice bearing serial No. 459257 stolen from the Kheragarh branch had been made use of in connection with these DDs. Branch Advice purports to have been prepared by Sri M. S. Bahl (29927) a clerk of Kheragarh Branch. He further observes that the signatures of Shri T. C. Agarwal on the D.D. and branch advice tally in outward form and apparently no disciplinary could be noticed in branch advice as it was in usual form.

17. It further appears from the preliminary inquiry report that the DDs was present by one Shri Prakash on Aligarh Branch on 2-7-80. Sri D. P. Virmani who was posted as accountant at Aligarh Branch refused to make payment and insisted for identification of payee through some known

person. As the payee insisted for payment on the ground that he was possessing proper identification card issued by Kheragarh Branch, the matter was brought to the notice of the manager of the Branch Sri Bala Gangadharan by the payee. The manager inquired from the accountant the reasons for nonpayment and after ascertaining that the branch advice in respect of the D.D. had been received, he ordered payment of the D. D. to the payee. At page 4, of the report it appears that Shri S. K. Bahl (29927) when confronted by Shri K. V. Krishna Murthy about his signatures on the branch advice denied that it bore his signatures. There appears to be a clerical error with name of Shri Bahl. At page (3) of the report has been named as Sri M. S. Bahl and at page (4) he had been named as S. K. Bahl, however, there is no difference in the number allotted to the clerk Sri Bahl.

18. At page 4 & 5 of his report Sri Krishna Murthy writes as under—

It came to our notice that Sri Gurmit Singh (25298) was found to be practising the signatures of Sri T. C. Agarwal accountant and it has been shown to many staff members to find out whether there is any difference in the practised signatures of his and the signatures of Sri T. C. Agarwal. During our investigation Sri Gurmit Singh admitted that for the sake of fun he was practising the signatures of Sri T. C. Agarwal but he has not forged his signatures on the draft nor he is in any way involved in the matter.

It has been admitted before me by both the sides that the distance between Kheragarh Branch and Aligarh is about 125 Kms and the way from Kheragarh to Aligarh lies through Agra. It is impossible to believe that the workman who had taken over charge on 2-7-80 would have been able to manage the receipt of the branch advice which is normally sent by post at Aligarh prior to 2-7-80, or even otherwise prior to the presentation of the D. D. by the payee on 2-7-80. After all some time must have been taken by the workman while taking over charge and then some time must have been taken in getting the DD, and the Branch Advice prepared. At about noon it is common knowledge that there is great rush in the cities. Had the D. D. and Branch Advice been issued on 2-7-80, the payee could not have reached Aligarh under any circumstances upto 2 p. M. It is common knowledge that money transaction in the banking industry took place from 10 a.m. to 2 p.m. This is not denied even by the authorised representative for the management. It is also not denied that normally the branch advice is sent by post after the issue of D. D. There is no evidence from the side of the management to show that the branch advice was not received by post at Aligarh Branch.

19. Thus the above facts and circumstances go to show that some body had stolen the D.D. leaves and the branch advice in question before 2-7-80 prepared and forged the D. D. and branch advice and the signatures identification card and manager to get D.D. cashed in the above manner.

20. From the report dt. 9-9-80, it is also clear that the workman took charge of D. D. Department on 2-7-80 even it was stated so by M. W. 1 Sri R Radhakrishnan Manager Kheragarh Branch before the E. O. in his evidence. So unless it is shown that the workman had an excess to the D. D. Book and the Branch Advice, it is very difficult to raise even a little finger against him. It may state here that the E. O. had wrongly stated at page 1 of his report that the workman had taken over charge on 1-7-80. It seems that he had done it deliberately in order to show prima facie that there was every probability of the workman having forged the D. D. and the branch advice in question.

21. D. D. No. 850099 dt. 4-7-80 for Rs. 50,000/- drawn in favour of Shri Ram Prakash on Gwalior Branch—

It is serial no. 1079. With regard to this D. D. Sri K. V. Krishnamurthy under the heading payment at Gwalior Branch at page (3) writes as under—

The date on the draft had not been written properly and it was appearing as '47 1980'. Therefore the branch did not make the payment and they

insisted for authentication by the issuing branch and also they insisted that the payee should be properly introduced to the bank. At Gwalior also the payee had produced a Specimen Signature Card, purported to have been issued by the Kheragarh Branch, identifying the signature. Even in this Specimen Signature Card the contents had been written on the back of bank's usual form and also it was not written at the specific place. It was also not addressed to any particular branch.

With regard to this D. D. he writes that the D. D. Branch Advice an specimen signature card bear the purported signatures of Sri T. C. Agarwal which signatures outwardly tally with the admitted signatures of Sri T. C. Agarwal. He writes that this D. D. was first presented for payment by the payee on Gwalior Branch on 9-7-80. Because of the defects noted in the D. D. and other irregularities no payment was made to the payee and he was asked to get the date authenticated from Kheragarh Branch. After getting the defect removed the payee again appeared for payment on 12-7-80. Meanwhile the branch advice purported to have been sent by Kheragarh Branch had been received by the Gwalior Branch. The Branch Advice bearing no. 459399 which was also stolen purported to have been written by Sri LPS Soni (21477) when it was not so written by Sri Soni. Thus it appears from all these facts that the modus apperandii was the same with almost similar irregularities.

22. About Sri K. K. Varshnay, Sri K. V. Krishnamurthy writes that he had joined the bank on 4-7-80. He stated before him that this D. D. which was encashed at Gwalior Branch was prepared by him as per direction of the workman who was posted as Special Assistant at that time. Sri Varshney in his evidence before the E. O. has corroborated the above fact. At page 32 of the inquiry proceedings filed by the management with their list of documents dated 30-7-90 in reply to a question has dated as under—

1 Joined the bank on 4-7-80, while writing DDs I was making many mistakes. On 5-7-80, morning Sri V. K. Gupta told him to write the above D. D. and Branch advice by giving a credit slip prepared by him. What he did with the D. D. and branch advice afterwards I don't know.

23. Before the E. O. it was stated by Sri Varshney that he belongs to Alagarh where his brother lives. Thus according to Sri Varshney this D. D. dt. 4-7-80, was actually prepared by him alongwith branch advice on 5-7-80. He has not said anything about the other forged D. D. dt. 18-6-80 and its branch advice. Now let us examine the two DDs Branch Advice and Specimen Signature Cards.

24. I shall be referring to them with the serial numbers of the papers filed by the management with the list of documents dt. 19-11-91. Paper No. 56 is the photocopy of D. D. No. 850100 dt. 18-6-80 drawn on Aligarh Branch. It has been marked Ext. M.3 by the E. O. Paper no. 57 is the photocopy of Branch Advice dt. 4-7-80 in respect of D. D. No. 850099 dt. 4-7-80 in respect of D. D. drawn on Gwalior Branch. It has been marked Ext. M. 6 by the Enquiry Officer. Words 'Fifty Thousands only' in the two documents appear even to the naked eye written by one and same person. Further in the two documents digits (1) & (8) wherever they appear tally. It means that the scribe of D. D. dated 18-6-80 is one and same person who had written branch advice dated 4-7-80. We have seen above that branch advice dated 4-7-80 in respect of D. D. No. 850099 drawn on Gwalior Branch was written by Shri K. K. Varshnay. It therefore follows that the writer of D. D. dt. 18-6-80 drawn on Aligarh Branch was written by Sri Varshnay.

25. Now let us compare D. D. dt. 18-6-80 marked Ext. M. 3 with paper no. 58 which is the photostat copy of specimen signature card in respect of this D. D. dt. 18-6-80. It has been marked Ext. M. 5 by the inquiry officer. Name Ram Prakash in these two documents even to the naked eye appear to have been written by one and same person. But for letter (K) in the word, "Prakash". It therefore follows that the writer of D. D. dated 18-6-80, writer of specimen signature card of this very D. D. and the writer

of Branch Advice dt. 4-7-80 in respect of D. D. Drawn on Gwalior Branch is Shri Varshnay.

26. Now let us compare the writer on document No. Ext. M. 5 with paper No. 60 which is the photocopy of specimen signature card in respect of D. D. drawn on Gwalior branch. It has been marked as Ext. M. 7 by the E. O. It will appear from the two documents that the words—

Today I have issued D. D. in the name of

.....whose signatures is as below Appears to have been written by one and same person. The result is that the writer of Ext. M. 3 (page 56), M. 6 (page 57) M. 5 (page 58) and M. 7 (page 60) is no other than Shri K. K. Varshnay.

27. The question is how and under what circumstances Sri Varshnay prepared D. D. dt. 18-6-80 drawn on Aligarh Branch and specimen signatures card in respect of this very D. D. It means that he had been visiting this branch prior to 2-7-80 and either he was a prey to the plot regarding fraudulent withdrawn of Rs. 10,00,00 or he had done it at the behest of some one, who had very cleverly forged the signatures of Shri T. C. Agrawal Accountant.

28. I may state here that the E. O. has mainly relied upon the evidence of Sri Varshnay and on the report of hand writing expert for his findings. He have seen that the writer of the two DDs and specimen signature card is no other than Sri Varshnay. Therefore he had not come out with the truth before the Enquiry Officer. Had it been the work of the workman who had become special assistant or was going to become special assistant he would not have committed irregularities as have been pointed out by Sri K. V. Krishnamurthy in his report dt. 9-9-80.

29. Now I come to the report of the hand writing expert. He was not examined at the inquiry. According to him date 4-7-80 on D. D. No. 850099 bearing serial No. 1089 is in the hand writing of the workman. He has given his reasonings for arriving at the said conclusion at page 6 of his report corresponding to pages 45 & 46 of the management's list of documents dt. 19-11-91. He has also given the opinion that the signatures of Sri T. C. Agarwal do not appear on the two DDs, their branch advices and their specimen signatures cards. Lastly he has given opinion that digits 6742 appearing on D. D. drawn at Gwalior Branch are in the hand writing of the workman. Now let us see whether the date dt. 4-7-80 and digits 6742 found written on D. D. drawn at Gwalior Branch are in the hand writing of the workman as said by the hand writing expert. With regard to the date 4-7-80 he has banked upon his opinion on the admitted writing C-1, C-2, C-3, C-5, C-6 and C-14 of the workman. He writes that the initial stroke of digit '4' makes a slight bend, in the questioned document Q. 1/C referring to the disputed date and also in C-14 in figure 47 in lines nos 3 & 8. I really wonder at the approach of the hand writing expert. In C-14 digit (4) appear at more than 30 other places.

In C-1, C-2, C-3, C-5, C-6 and C-12 at papers at 4, 4, 3, 16, 41 and 2 places respectively. Thus out of nearly hundred digits of 4 written by the workman he could find there similarity only in two such digits. This cannot be said as representing the general characteristics of the writing of digit "4" by the workman. Same is the case with regard to reason no. 2 given by him that the gap between two legs of digit 4 is some what narrow in Q. 1/C and also in C-14 in figure 24 in line 8. The third observation made by him that the bar of digit 4 is some what longer in Q-1/C and C-5 line nos 4 and 6. This appears to be quite wrong even when seen with the naked eye.

30. The reasoning given by him with regard to digit '7' in the date 4-7-80 by him is that the initial stroke of digit '7' makes a hook in Q-1/C and also in almost all the digits '7' in the standard figures. I do agree with this observation and one more other observation made by him with regard to similarity of digit '7' in the admitted and questioned documents. This alone not sufficient for arriving at the conclusion that the disputed date is in the hand writing of the workman.

31. Next he has said that after the digit '7' the writer put a full stop in Q-1/C while after the digit '4' he had made a dash. The habit of putting a full stop after digit '7' also occurs in C-2 in the dates 7-6-80 in line no. 11.

32. I do not feel inclined to accept his observations. In C-1, C-2 and C-3 about 100 dates were got written from the workman. In none of these except the one referred to by the expert, in place of dash, full stop appear and that too when there was enough space to put dash. If he had put a dash between figure '7' & '6' in the date 7-6-80 in C-2 he would have surely put full stop between figures '6' & '80'. In the disputed date there appears a dash between figures '4' & '7', full stop between figures '7' & '80' and this seems to be due to fact that the space between figures '7' & '80' was very little. We have to examine every thing on the envil of circumstances also. We have seen above that these D.Ds was returned by the Gwalior Branch to the Payee when it was presented by him at the said branch on 9-7-80, because of the defect in the date. Had the workman forged the D.D. and other connected papers/documents he would not have again created a doubtful position by doing so. He should not forget that below the date 4-7-80, in the D.D. there appears a forged signature of Sri T. C. Agarwal in token of the correctness of the date. It follows therefore that very person who had forged the signatures of Sri T. C. Agarwal must have tried to copy the figures in the date 4-7-80 as is commonly written by the workman and whereas he was successful in making the figure '7' he could not successfully copy out the other figures. The catch is from his way in which digit '8' has been written in the figure '80' forming parts of the year 1980. Digits (1) & (9) are printed digits. Formation of digit '8' in the figure '80' in the disputed document can be described into two ways. One is that the writer had first written the letter 'S' and then joined the two extreme ends and the other is that the writer started writing with a stroke beginning from downward taking it upward and then bringing it downward resulting in the formation of two loops. But in the specimen of dates digit '8' begins with a loop from above. It then moves downward to from lower loop and then the stroke moves upwards to complete the upper loop. This important aspect seems to have been lost sight of by the hand writing expert and I have no hesitation in making a remark that it was done deliberately.

33. Now I come to digit 6, 7, 4, 2 of the disputed documents appearing below the forged signatures of Sri T. C. Agarwal made in confirmation of having put the date 4-7-80 on the D.D. In his report marked page 51 by the management the expert writes as under :

I am of the opinion that the disputed figure is written by Sri Vijay Kumar Gupta, who has written the specimen digits of figures marked as C-1 to C-3, C-5 and C-6. C-1 print having not come during the process of preparing photostat copy). The formation of the digits show marked similarities and they have been demonstrated on the photographs. Like numbers may be compared with like numbers.

But for this no specific point of similarity as have been given by the hand writing expert in respect of digits '4' and '7' of the date 4-7-80 have been given. Here again I find no substance in the report of the hand writing expert. I do not agree with it after examining the similarities marked by him. The circumstances point out that the report of the hand writing expert is far from reliable. Even otherwise it is a weak type of evidence and unless it is corroborated by the testimony of these who are familiar with the hand writing of the chargesheeted employee and circumstances it cannot be accepted. It seems that the hand writing expert has danced to the tune of the management. It further appears that Sri K. V. Krishnamurthy has not made a proper probe into the matters and has been swayed away while making his first report by the behaviour of the employee/workman and while making his second report by the unreliable opinion given by the hand writing expert. There is no evidence that any body had ever seen the workman practising the signatures of Shri T. C. Agarwal, Accountant.

34. Hence from the above discussions of evidence and circumstances I hold that the two DD leaves in question and the branch advices connected with these two DDs were not possession of the workman at the time of handing over of charge of the D.D. Department nor these documents were prepared or got prepared by the workman with a view to defraud the bank to the sum of Rs. 100,000/-.

35. The other charge with regard to the missing DD leaves and branch advices. The question is whether these DD leaves

and branch advices as are referred to in the chargesheet were ever given in the name of the workman at the time of handing over charge of D.D. Department. There is absolutely no evidence from the side of the management on this point. In this connection I may refer to the following observations made by Sri K. V. Krishnamurthy in his report dt. 9-9-80 at page 4—

1. On verification of the serial numbers of the succeeding and preceding branch advices pertaining to the missing branch advices, it is noticed that branch advices have been removed around December, 1979, March, 1980, June 1980 etc. Similarly Demand Drafts around March 1980, June 1980, July 1980 and August, 1980. The concerned clerk or the Supervisor have not verified the serial number of the branch advices or the DDs and therefore the removal of the DD's or Branch Advices in between has not come to their notice.
2. It appears there was no proper control over the security items and therefore one DD Book bearing no. 910401 to 910500 has been removed from the safe custody of the branch from the Double Lock and it cannot be now identified as to when the DD Book has been removed. As per the security items register this particular DD book was in existence around Sept. 1979. Subsequently, this series has not been issued for the purpose of use in the branch and therefore now it is not possible to state exactly when this DD book has been removed.

In his cross examination before the E.O. MW-1 Sri R. Radhakrishnan Manager Kheragarh Branch deposed that Sri T. C. Agarwal was relieved of the charge on 9-6-80. There is no evidence from the side of the management that after 9-6-80 and before taking over charge on 2-7-80, the workman had ever held the charge of the D.D. Department even temporarily or at any time during the said period. DD Book containing the missing DD leaves and books containing missing branch advices were entrusted to him. He has further stated in his cross-examination that prior to 2-7-80 no officer had reported to him about the missing D.D. leaves and branch advices. This is when the officer who held the preliminary inquiry found that the branch advices had been removed around December, 1979, March, 1980, June 1980 etc. and demand drafts around March 1980, June, 1980 July 1980 and August 1980. No doubt he has not specified as to when demand drafts were removed during July 1980 and August 1980. But without entrustment of the documents charge cannot be held as proved.

36. Accordingly I hold that the charge with regard to missing DD Leaves and Branch Advices framed against the workman as not proved.

37. Thus we find that the findings given by the E.O. and accepted and confirmed by the Disciplinary Authority and Appellate Authority were perverse and not based on any evidence. The management, at the inquiry, failed to prove any of the charges against the workman. Because of it the order of punishment passed by the management dismissing the workman from bank's service cannot be upheld. It is quashed.

38. Hence it is held that the action of the management of Canara Bank in dismissing Shri Vijay Kumar Gupta, from the service of the bank is not at all justified. With the quashing of the order of punishment he is held entitled to his reinstatement in service with full back wages and consequential benefits including full salary of special assistant of the period of suspension and thereafter with annual increments as and when falling due.

39. The reference is answered accordingly.

ARJAN DEV. Presiding Officer
[No. L-12012/839/87-D II(A)]

का. आ. 269--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक से प्रबंधकों के संबंध नियोजकों और उनके कर्मचारों के बीच, शतबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर, के पंचपट्टी प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-92 को प्राप्त हुआ था।

S.O. 269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 3-1-1992.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 4 of 1989

In the matter of dispute :

BETWEEN

Shri Kewal Krishan Seth C/o Shri V. N. Sekhari, 26/104,
Birhana Road, Kanpur.

AND

The Regional Manager, Punjab National Bank Regional
Office, The Mall, Kanpur.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. I-12012/461/88-D.II (A) dated 4-1-1989, has referred the following dispute for the adjudication to this Tribunal :

Whether the action of the management of Punjab National Bank, in terminating the services of Shri Kewal Krishan Seth and not considering him for further employment while recruiting fresh hands under Section 25-H of the I. D. Act, is justified ? If not, to what relief is the workman entitled ?

2 In this case till 27-11-1991 no affidavit evidence was filed on behalf of the workman. A notice was sent to the workman to this effect on 29-8-91 in compliance of order dated 21-8-91 but despite that none appeared for the workman nor any affidavit evidence filed in the case. The workman had availed several opportunities for filing of evidence. It therefore appears that the workman is not interested in prosecuting the case.

3. Therefore in the circumstances of the case a no claim award is given against the workman.

ARJAN DEV, Presiding Officer
[No. L-12012/461/88-D.II (A)]

का.प्र. 270.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधक संबंध नियोजकों और उन कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचवट को प्रकाशित करता है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर
केस नं. सी.आई.टी. 18-91

केन्द्र सरकार अम संजालय की अधिसूचना संख्या
एन. 12012/422/90 आई. प्रान.पी-जी वि. 16-4-91
महासचिव, राज. बैंक वर्कर्स आर्गनाइजेशन, रामपुर कोटा
बनाम
औद्योगिक प्रबंधक, पंजाब नेशनल बैंक, भरतपुर।

लपस्थिति

अधिक संघ की ओर से : कोई हाजिर नहीं
नियोजक पक्ष की ओर से : कोई हाजिर नहीं
दिनांक अर्थात् : 16-5-91

अर्थात्

फरिफेन की ओर से, कोई हाजिर नहीं है आज मृत्यु को स्टेटमेंट आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है। अतः इस प्रकरण में जो डिस्ट्रिक्ट अर्थात् पास किया जाता है जो केन्द्रीय सरकार को प्रकाशितार्थ सेजा जाये।

जगत सिंह, न्यायाधीश

[सं. एन-12012/422/90-बी-2(ए)]

का.प्र. 271.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7 के अनुसार में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधक के संबंध नियोजकों और उन कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं 2 बम्बई के पंचवट को प्रकाशित करता है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 1-1-92.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, AT BOMBAY

PRESENT :

Shri P. D. Apathankar, Presiding Officer.

Reference No. CGIT-2/53 of 1985

PARTIES :

Employers in relation to the Management of Central
Bank of India.

AND

Their Workmen.

APPEARANCES :

For the Employer : Shri P. S. Chari, Advocate.

For the Workmen : Shri V. Premchand, Advocate.

INDUSTRY : Banking.

STATE : Gujarat.

Bombay, the 23rd December, 1991

AWARD

The Central Government by their Order No. L-12012/313/83-D.II(A), dated 24-7-1985 have referred the following Industrial Dispute to this Tribunal for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947.

"Whether the action of the management of Central Bank of India, Ahmedabad, in relation to their Nava Vadaj Branch in terminating the services of Shri B. C. Parmar, Sweeper, with effect from 13-11-1982, is justified ? If not, to what relief is the workman concerned entitled ?"

2. The case of the workmen Shri B. C. Parmar as disclosed from the statement of claim (Ex. W-2) filed on his behalf by the General Secretary of the Central Bank Employees' Union, Ahmedabad, in short, is thus :—

The said workman was working as a part-time Sweeper at the Nava Wadaj Branch of the Bank at Ahmeda-

bad for many years prior to the termination of the service on 13-11-1982. On 13-1-1981 the Chief Officer of the Bank issued a memo to him alleging certain misconduct against him and called for the explanation in the matter. The workman replied to it. Thereafter, on 7-3-1981 a chargesheet was issued to him by the Bank management alleging that he had committed certain misconduct, viz., that on 24-1-1981 he was given a sum of Rs. 334 with a pay-in-slip book in the name of Makhannibhai R. Desai by the sub-Accountant of that Branch viz. Shri J. B. Vatalia, for crediting the amount in the account of the Gujarat Housing Board in that branch. It was further alleged against him that he was also given a sum of Rs. 270 together with a pay-in-slip by Shri L. B. Vihol, the staff member of the Branch for crediting that amount in the account of the Gujarat Housing Board at Nava Wadaj Branch. Thereafter Shri M. D. Dhamania, the Branch Manager, was appointed as an Enquiry Officer. Statements of certain witnesses were recorded by the Vigilance Officer of the Bank before the charge sheet was issued to the workman. However, no copies of that statements were supplied to him. The allegation made against the workman does not fall within the purview of the misconduct as contemplated in the Awards and the Bipartite Settlements. The above said work that was entrusted to the workman on the said day was not his routine work, and that work did not fall within the purview of the duty he was to perform. When that work was entrusted to him, he had already performed his duties of that day, and he took that work to perform only out of respect for the officer concerned. For the alleged omission of that work, the workman could not have been served with the charge sheet. The charge sheet issued to the workman is illegal and void. He was not supplied with the copies of the preliminary enquiry, and as such, he was deprived of his right of effective cross-examination of the Management witnesses. The workman was not supplied with the copies of the statements recorded by the Vigilance Officer. The Vigilance Officer was not examined as a witness during the enquiry proceedings. The Report of the Vigilance Officer was not produced during the enquiry proceedings, even though demanded by the Inquiry Officer. The management representative had requested the Inquiry Officer to allow the workman to cross-examine him, even though the workman had not made any oral statement. The Inquiry Officer also cross-examined the workman to elicit the information from him to help the management. Thus the procedure adopted in conducting the enquiry against him, was illegal and contrary to the principles of natural justice, and Rules and Regulations. The Inquiry Officer had not put any question to the workman whether he desired to lead any oral evidence on his behalf. The Inquiry Officer recorded his findings and found the workman guilty of the charge No. 1 levelled against him. Thereafter, a show cause notice was issued to him to show cause why he should not be dismissed from the service of the Bank. The workman replied to it. Thereafter, he came to be dismissed from the Bank's service with effect from 13th November, 1982. The findings of the Inquiry Officer are perverse. The copy of the Inquiry Officer's Report was not supplied to the workman. The Union, therefore, prayed that this Tribunal should set aside the order of dismissal passed against the workman, and should direct the Bank management to reinstate him in service with full back wages and continuity of service.

2. The Bank management by their written statement (Ex. M/13) opposed the said claim of the Union, and in substance contended thus :—

The present reference is not legally tenable, as the Central Government has committed a jurisdictional error in referring the said dispute to this Tribunal. No industrial dispute as contemplated under the Industrial Disputes Act, 1947, existed between the work-

man and the Bank. The Bank management then further contended thus :—

The said workman was working as a part-time sweeper at Nava Wadaj Branch of the Bank at Ahmedabad. On 24-1-1981 he was given a sum of Rs. 334 with a pay-in-slip book in the name of Makhannibhai R. Desai by Shri J. B. Vatalia, the sub-accountant, for crediting that amount in the Gujarat Housing Board's account in the branch. On the same day he was also given a sum of Rs. 270 with a pay-in-slip by Shri L. B. Vihol, the staff member of the branch, for crediting it into the account of the Gujarat Housing Board with the branch. However, the workman disappeared with the said amounts without crediting them in the account of the Gujarat Housing Board, and destroyed the pay-in-slips. As the said misconduct was a serious one, a memo was issued to him by the Bank management. The workman replied to it. Thereafter, the charge sheet dated 7-3-1981 was issued to the workman. Shri M. D. Dhamania, the Branch Manager of the Maskan Market Branch of the Bank, was appointed as an Inquiry Officer to enquire into the allegations made against the workman by the said charge sheet. Shri F. K. Padaha was appointed as the Bank's Representative. The Inquiry Officer conducted the necessary departmental enquiry against the workman. He was given ample opportunity to defend himself, and the rules of natural justice were followed in conducting the enquiry against him. The Inquiry Officer, after hearing both the parties, recorded his findings and found the workman guilty of the charge No. 1 levelled against him. A copy of the report of the Inquiry Officer was supplied to the workman. Thereafter, a notice was issued to the workman to show cause regarding the proposed punishment to be imposed upon him. The workman replied to it. Thereafter, the workman was discharged from the Bank's service by the order dated 13/11-1982. Against that order, the workman filed an appeal to the Appellate Authority, which dismissed his appeal, and confirmed the order of the Disciplinary Authority.

4. The Bank management further contended thus :—

As the regular departmental enquiry was conducted against the workman, there was no question of supplying or advance copies of certain other statements to the workman. The allegation made against the workman fall within the scope of misconduct as contemplated under the Bi-partite Settlements and the Awards. The work entrusted to the workman was in respect of the Bank's work. The work of the Bank should be taken as a whole for the purpose of assessing the misconduct of the workman. The employees of the Bank work in co-operation, and as a team. Honesty and integrity is expected from the workman and the other employees working in the Bank. The said workman showed utter disregard for the said important requirement expected of the Bank employees. The said workman acted dishonestly, and tarnished the image of the Bank by committing a misconduct which was prejudicial to the interests of the Bank. The Bank has lost confidence in the workman, and hence imposed a just and proper punishment. The workman had accepted the work given to him wilfully but with a mala fide intention of misappropriating the amount entrusted to him. No preliminary enquiry was conducted against the workman before the regular enquiry, and as such, there was no question of supplying the copies of any such preliminary enquiry. It was not necessary for the Bank to examine the Vigilance Officer during the enquiry proceedings, or to produce the copy of the Vigilance Report before the Enquiry Officer. The Bank management lastly contended that their action in the matter is just, proper, and legal, and prayed for the rejection of the claim of the Union.

5. The Issues framed at Exh. 24 are :—

- (1) Whether this Central Government Industrial Tribunal No. 2, Bombay, has jurisdiction to entertain the present reference?
- (2) Whether the Bank management proves that no industrial dispute, as contemplated under the Industrial Disputes Act, 1947 exists between the parties?
- (3) Whether the workman proves that the inquiry held against him, was not conducted properly, and the rules of natural justice were not followed?
- (4) Whether the findings of the Inquiry Officer were perverse?
- (5) Whether the Bank management proves that the work entrusted to the workman in question twice fell within the purview of his duties as a Bank employee?
- (6) Whether the action of the Management of Central Bank of India, Ahmedabad, in relation to their Nava Vadaj Branch in terminating the services of Shri B. C. Parmar, Sweeper w.o.f. 13-11-1982 is justified?
- (7) If not, to what relief is the workman concerned entitled?
- (8) What Award?

6. My findings on the said Issues are :—

- (1) Yes.
- (2) Industrial Dispute exists.
- (3) No.
- (4) No.
- (5) Yes.
- (6) Yes.
- (7) Nil.
- (8) Award as per below.

REASONS

ISSUE NO. 1 :

7. According to the Bank management, the Central Government has committed a jurisdictional error in referring this dispute to this Tribunal. Under section 7A of the Industrial Disputes Act, the appropriate Government may be notification in the Official Gazette constitute one or more Industrial Tribunals for the adjudication of the industrial disputes and for performing such other functions as may be assigned to them under the Act. The present Central Government Industrial Tribunal No. 2, Bombay, has accordingly been constituted by the Central Government under section 7A of the Industrial Disputes Act. As such, this Tribunal has certainly the jurisdiction to entertain and decide the present reference. Issue No. 1 is found in the affirmative.

Issue No. 2 :

8. According to the Bank management, no industrial dispute, as contemplated under the Industrial Disputes Act, exists between the workman and the management. However, as per section 2A of the Industrial Disputes Act, where an employer discharges, dismisses or otherwise terminates the service of an individual workman, any such dispute between the workman and his employer connected with such discharge, dismissal or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any Union of workmen is a party to the dispute. As such, an industrial dispute exists between the present workman and the bank management, as it relates to the termination of his service.

Issue No. 3 :

9. The workman Shri B. C. Parmar filed his affidavit in support of his case at Ex. W/25 and he was cross-examined on behalf of the Bank management. The Bank management filed the affidavit of the Enquiry Officer Shri M. D. Damani at Ex. M/52, and he was cross-examined on behalf of the workman. According to the workman, the enquiry held against him was not conducted properly, and the rules of

natural justice were not followed. However, it is seen from the record and the statements made by the workman in his statement of claim that before the charge sheet was issued to him, a memo was issued to him, that he replied to it, and thereafter a charge sheet was issued to him. In his cross-examination the workman stated and admitted thus :

"In the departmental enquiry held against him, he had engaged his defence representative by name Shri Mehta and he was present throughout the enquiry. The management witness Shri L. V. Vihol was cross-examined by the defence representative. The another management witness Shri J. B. Vatalia was also cross-examined by his representative. His mother was examined as a witness on behalf of the management, and she was also cross-examined on his behalf. He was present throughout the enquiry proceedings."

Thus, full opportunity was given to the workman to defend himself during the enquiry proceedings. Against the dismissal order passed against the workman by the Disciplinary Authority, the workman had filed an appeal, and the Appellate Authority, on hearing both the parties dismissed it. The workman admitted in his cross-examination that Shri M. L. Parikh was representing him during the appeal proceedings. I, therefore, find that the enquiry held against the workman was held properly and the rules of natural justice was properly followed. Issue No. 3 is found in the negative. Issue No. 4 :

10. According to the workman, the findings of the enquiry officer are perverse. However, on going through the Enquiry Officer's Report, I find that his findings are just and proper and are based on the evidence led before him, and they are not perverse in any way. Issue No. 4 is, therefore found in the negative.

Issue Nos. 5 and 6 :

11. Two charges were levelled against the workman in the domestic enquiry held against him, viz. :—

1. Act subversive of discipline which is an act prejudicial to the interests of the Bank which is an act of gross misconduct under clause 19-5(j) of the Bi-partite Settlement of 1966 ;
2. Incurring debts to an extent considered by the management as excessive which is an act of minor misconduct under clause 19-7(1) of the Bi-partite Settlement of 1966.

The Enquiry Officer by his Report dated 4-5-1982 found the charge No. 1 proved against the workman, and held the charge No. 2 not proved against him. According to the Bank management, the act of the workman in question amounted to gross misconduct as contemplated under clause 19.5(j) of the first Bi-partite Settlement 1966, which runs thus :—

"19.5 By the expression 'gross misconduct' shall be meant any of the following acts and omissions on the part of an employee :

- (j) doing any act prejudicial to the interests of the Bank or gross negligence or negligence involving or likely to involve the Bank in serious loss."

In his cross examination the workman Shri Parmar admitted thus :—

"I had gone to Ajmer after 24-1-1981 and stayed there for two days. I had taken the pay-in-slips of the Bank there. In one pay-in-slip the amount of Rs. 354 and the other pay-in-slip the amount of Rs. 270 were entered into. In the pay-in-slip for Rs. 354 the name of Makhanjibhai R. Desai appeared and in the other pay-in-slip the name of L. V. Vihol appeared. I had taken the above two amounts from Ahmedabad to Ajmer. Those amounts belong to the Bank account holders mentioned above."

The abovesaid amounts were handed to the workman on 24-1-1981. Therefore, as per the admission of the workman himself, he mis-appropriated those amounts 24-1-1981 and did not credit them in the Account of the Gujarat Housing Board. Those amounts were admittedly belonging to the two account holders of the Bank. Therefore, by the said act the workman clearly committed gross misconduct by doing an act preju-

dicial to the interests of the Bank, and as such he was rightly found guilty of the charge No. 1 levelled against him by the Inquiry Officer.

12. According to the workman, it was not his duty to deposit the amounts in the account in the Bank, and that the said amounts were handed over to him after his duty hours were over. According to him, his duty hours were only from 7.00 A.M. to 10.00 A.M. Now, if it was not his duty to deposit the amounts in the Bank, he should not have accepted those amounts but should have returned them back to the said account holders. However, after having received those amounts, and after having willingly accepted to discharge his duty, the workman cannot do any act prejudicial to the interests of the Bank. By acting as above, after having received the amounts, the workman has done an act prejudicial to the interests of the Bank as the image of the Bank is tarnished in the eyes of the people and the account holders. The workman has committed a breach of trust reposed in him, his act amounted to an act subversive of discipline. The work to be performed by him was not a private transaction unconnected with the Bank business.

13. My attention was drawn to the case of the Gujarat High Court reported in 1983 (2) GLR Page 1145, wherein it was held thus :—

“No employer can be saddled with a responsibility to retain an employee who is proved to be corrupt or indulging in dishonest practices especially in an institution like a Bank which has to deal with depositor's money.”

It was further held by the Supreme Court in the case of Muthuchandam Electrical Radio and Industries V/s. its workmen reported in 1975 1 LLJ Page 391, thus :—

“An act wherever committed, if it has the effect of subverting discipline or good behaviour within the premises or precincts of the establishment, will amount to misconduct.”

It was held by the Supreme Court in the case of Dhantwal v/s. Hindustan Motors Ltd., reported in 1977 SCC (L&S) Page 25 thus :—

“Standing orders of a company only describe certain cases of misconducts and the same cannot be exhaustive of all the species of misconduct which a workman may commit. Even though a given misconduct may not come within the specific terms of misconduct described in the standing orders, it may still be a misconduct in the special facts of a case, which it may not be possible to condone and for which the employer may take appropriate action.”

14. The workman has relied upon the case of Glaxo Laboratories reported in 1984 SCC (L&S) 42 in support of his contention that the work performed after the duty hours cannot be termed as a misconduct. However, the facts of the Glaxo case are different from the facts of the present case, and it was held in the Glaxo case by the Supreme Court that in case any misconduct was committed within the premises of the establishment or in the vicinity thereof, the necessary action can be taken against the workman.

15. According to the workman, the Enquiry Officer cross-examined him. However, I find from the record that the workman was not cross-examined as such by the Enquiry Officer, but that he had put some questions to him only with a view to clarify the point, which is permissible in law. According to the workman, the copies of the statements recorded by the Vigilance Officer were not supplied to him, and the Vigilance Officer was also not examined as a witness during the enquiry proceeding. However, the present enquiry was conducted independently of the Vigilance Report, and as such it was not necessary for the Bank management to supply the copies of the statements recorded by the Vigilance Officer to the workman. According to the Bank management, no preliminary enquiry before holding the regular enquiry, was held against the workman, and as such there was no question of supplying the copies of the preliminary enquiry to the workman.

16. In result, for the reasons and circumstances mentioned above, I find that the action of the Bank management in ter-

minating the services of the workman Shri Parmar with effect from 13-11-1982 was quite just, proper and legal.

17. The action of the Bank management in question is just and proper also in view of the previous records of the workman. He admitted in his cross-examination that one more enquiry was held against him before the enquiry in question, that the allegation against him in that earlier enquiry was that he had misbehaved with the daughter of the Bank's customer, and that his two increments were stopped thereby. Therefore, in view of this previous bad record of the workman in the past, the Bank management's action in question is quite just and proper. Issue Nos. 5 and 6 are therefore found in the affirmative. As such the workman is entitled to no relief. Issue No. 7 is found accordingly.

18. In the result, the following Award is passed.

AWARD

The action of the management of Central Bank of India, Ahmedabad, in relation to their Nava Vadaj Branch in terminating the services of Shri B. C. Parmar, Sweeper w.o.f. 13-11-1982 is just, proper, and legal.

The parties to bear their own costs of this reference.

P. D. APSHANKAR, Presiding Officer
[No. L-12012/313/83-D.II(A)]

का.प्र. 272.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ोदा के प्रबंधक के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 53/1991

रैफरेंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्र.

एल-12012/180-90 आई. आर. बी II दिनांक 18-9-91

श्री सुरेश सिंह मार्फत महा सचिव, बैंक आफ बड़ोदा कर्मचारों
यूनियन, जयपुर। —प्रार्थी

बनाम

बैंक ऑफ बड़ोदा, जयपुर। —प्रतिप्रार्थी

उपस्थित

माननीय न्यायाधीश श्री जगत सिंह जी, आर. एच. जे. एस.

प्रार्थी की ओर से : कोई हाजिर नहीं

प्रार्थी बैंक की ओर से : श्री आर. के. काला

दिनांक अर्बाई : 13-11-1991

अर्बाई

प्रतिप्रार्थी बैंक की ओर से श्री आर. के. काला उपस्थित आये। यूनियन की ओर से कोई हाजिर नहीं है। आज यह केस यूनियन की ओर से स्टेटमेंट ऑफ क्लेम पेश करने हेतु नियुक्त है किंतु ना तो स्टेटमेंट ऑफ क्लेम पेश किया गया और ना ही यूनियन की ओर से कोई उपस्थित आया। ऐसा प्रतीत होता है कि यूनियन अब इस मामले में रुचि नहीं ले रही है। अतः प्रकरण में नो डिस्पूट अर्बाई पारित किया जाता है जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जाये।

जगत सिंह, पीठासीन अधिकारी

[सं. एल-12012/180/90-डी-2(ए)]

का.प्रा. 273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 1-1-92 को प्राप्त हुआ था।

S.O. 273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 1-1-92.

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 48/1991

रैफरेंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/144/91/आई.आर.बी. 2 दिनांक 29-8-91

श्री बी. एल. मीणा द्वारा

सचिव, बैंक ऑफ बड़ौदा कर्मचारी यूनियन, जयपुर

—प्राथी

बनाम

बैंक ऑफ बड़ौदा, जयपुर।

—प्रप्राथी

उपस्थित

माननीय न्यायाधीश श्री जगत सिंह जी, आर. एच. जे. एस.

प्राथी की ओर से : कोई हाजिर नहीं

प्रप्राथी की ओर से : कोई हाजिर नहीं

दिनांक प्रवार्ड : 28-10-91

प्रवार्ड

फरीकेन की ओर से कोई हाजिर नहीं आया है। आज की ओर से स्टेटमेंट आफ क्लेम पेश करने हेतु केस नियुक्त था किंतु न तो क्लेम पेश किया गया है और न ही कोई उपस्थित आया। ऐसा प्रतीत होता है कि पक्षकारान् अब इस मामले में कोई रुचि नहीं रखते अतः इस प्रकरण में नो डिस्प्यूट प्रवार्ड पारित किया जाता है जो भारत सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जगत सिंह, न्यायाधीश
[सं. एल-12012/144/91-बी-2 (ए)]

का.प्रा. 274.—औद्योगिक विवाद अधिनियम, 1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S. O. 274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 1-1-92.

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. आई.टी. 49/1991

रैफरेंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक ए-11012/158/91/आई.आर.बी. दिनांक 29-8-91

श्री आर. के. मेहें, मार्केट महासचिव, बैंक ऑफ बड़ौदा कर्मचारी यूनियन, जयपुर—प्राथी

बनाम

बैंक ऑफ बड़ौदा।

—प्रप्राथी

उपस्थित

माननीय न्यायाधीश श्री जगत सिंह जी, आर. एच. जे. एस.

प्राथी यूनियन की ओर से : कोई हाजिर नहीं

प्रप्राथी की ओर से : कोई हाजिर नहीं

दिनांक प्रवार्ड : 28-10-91

प्रवार्ड

फरीकेन की ओर से कोई हाजिर नहीं है। यूनियन की ओर से स्टेटमेंट आफ क्लेम पेश करने हेतु यह केस आज नियुक्त था किंतु ना तो क्लेम पेश किया गया और न ही कोई उपस्थित आया। ऐसा प्रतीत होता है कि यूनियन अब मामले में रुचि नहीं रखती है अतः इस प्रकरण में अबम पैरवी में नो डिस्प्यूट प्रवार्ड पारित किया जाता है, जो सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जगत सिंह, पीठासीन अधिकारी
[सं. एल-12012/158/91-बी-2(ए)]

का.प्रा. 275.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इण्डिया के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S. O. 275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 1-1-92.

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 44/1991

रैफरेंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/422/87/बी 2 (ए) दिनांक 24-6-91

श्री राजेन्द्र सिंह

—प्राथी

बनाम

सेंट्रल बैंक ऑफ इण्डिया, श्रीगंगानगर ब्रांच, श्रीगंगानगर।

—प्रप्राथी

उपस्थित

माननीय न्यायाधीश श्री जगत सिंह जी, आर. एच. जे. एस.

प्राथी की ओर से : कोई हाजिर नहीं

प्रप्राथी बैंक की ओर से : कोई हाजिर नहीं

दिनांक प्रवार्ड : 4-11-1991

प्रवार्ड

फरीकेन की ओर से कोई हाजिर नहीं है। आज प्राथी को स्टेटमेंट ऑफ क्लेम पेश करने हेतु केस नियुक्त है किंतु ना तो प्राथी प्रत्यक्ष उसका प्रतिनिधि उपस्थित आये और न ही कोई क्लेम पेश हुआ है। ऐसा लगता है कि पक्षकार अब इस मामले में रुचि नहीं रखते हैं, अतः इस प्रकरण में अबम पैरवी में नो डिस्प्यूट प्रवार्ड पारित किया जाता है जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जगत सिंह, पीठासीन अधिकारी
[सं. एल-12012/422/87-बी-2(ए)]
बी. के. बेणुगोपालन, डेस्क अधिकारी

नई दिल्ली, 30 दिसम्बर, 1991

का.प्र. 276.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, धनपुरी ओपन कास्ट माईन्स आफ एस. ई. सी. के प्रबन्धन के संबंध निोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-12-91 को प्राप्त हुआ था।

New Delhi, the 30th December, 1991

S. O. 276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Dhanpuri Open Cast Mines of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 24-12-91.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(58)/1989

PARTIES :

Employers in relation to the management of Dhanpuri Open Cast Mines of S.E.C. Ltd., Post Amlai Colliery, Distt. Shahdol (M.P.) and their workman, Shri Shankar Saran Singh, Clerk Grade-III, represented through the M.P. Koyala Mazdoor Sabha, Hind Mazdoor Sabha, Post Dhanpuri, District Shahdol (M.P.).

APPEARANCES :

For Workman—Shri R. C. Srivastava Advocate.

For Management—Shri R. Menon, Advocate.

INDUSTRY : Coal Mining DISTRICT : Shahdol (M.P.)

AWARD

Dated : December, 10th 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-2102/38/88-DIIB/D IVB Dated 3-3-1989, for adjudication of the following dispute:—

“Whether the action of the management of Dhanpuri Opencast Mines of S.F.C. Ltd. in dismissing their workman Shri Shankar Saran Singh, Clerk Grade-III from services vide letter No. SECL/SAM/D/86/678 dated 11-2-1986 is legal and justified? If not, to what relief the workman is entitled and from what date?”

2. Facts leading to this case are that Shri Shankar Saran Singh was working as Clerk Grade-III in Dhanpuri Opencast Mines of the Management. On 10-9-1985 he was charge-sheeted as follows:—

CHARGE-SHEET

“I hereby require you to state as to why you should not be dismissed or demoted from the services of CIL/Western Coalfields Limited or punished with any lesser penalties specified in the Model Standing Order by which your services are governed on account of the following charges:—

(1) On 27-8-85 in gate pass No. 10885 against DO No. 371 dated 6-7-85 for truck No. MPA 8637, you have recorded gross & tare weight as 16,900 tonnes & 5,340 tonnes as net weight in have recorded 10,560 tonnes as net weight instead of 11,560 tonnes thereby you have over issued one (1) tonne of coal to the concerned party.

(2) On the same day i.e. 27-8-85 in gate pass No. 10878 against DO No. 439 dt. 7-7-85 for truck

No. MPA 7422 you have recorded gross & tare weight as 15,820 & 5,640 tonnes respectively. But in the net weight column you have recorded 10,880 tonnes instead of 11,180 tonnes thereby you have over issued 0.300 tonnes to be concerned party.

(3) On 30-8-85 in gate pass No. 10934 against DO No. 380 dt. 18-7-85 for truck No. CPF 9395 you have recorded gross and tare weight as 20,540 tonnes & 6,240 tonnes respectively. But as net weight you have recorded 13,300 tonnes instead of 14,300 tonnes thereby you have over issued one (1) tonne of coal to the concerned party.

(4) On 1-9-85 in gate pass No. 10999 against DO No. 321 dt. 5-6-85 for truck No. MPH 3958 you have recorded gross and tare weight as 16,140 tonnes and 5,000 tonnes respectively. But you have recorded 9,140 tonnes instead of 11,140 tonnes thereby you have over issued 2 tonnes of coal to the concerned party.

Recording of less weight of net coal carried by road sale trucks on the gate passes mentioned above constitute a major misconduct on your part under the model standing order by which your services are governed vide clause No. 17(i)(a) & 17(i)(f) which are reproduced below :

Clause 17(1)(a) : Theft, fraud or dishonesty in connection with the employer's business or property.

Clause 17(i)(f) : Habitual neglect of work.

3. A departmental enquiry was held against him and his services were terminated vide letter No. SECL/SAM/D/86/678 dated 11-2-1986.

4. Since the workman vide proceedings dated 29-10-91 has not challenged the validity of the enquiry I therefore record my findings on Issues No. 1 & 3 as follows :—

The domestic/departmental enquiry is proper and legal and the question of management to lead evidence before this Tribunal does not arise.

5. The case of the workman in brief is that the findings are perverse, the punishment is excessive and there is only a clerical error. There is also a discrimination in regard to his punishment which is liable to be set aside and the workman is entitled to be reinstated with all back wages and consequential reliefs.

6. Management in substance have denied all the averments of the workman. According to the management reference is liable to be rejected.

7. The following issues were framed by my learned predecessor, I have given the findings on Issues No. 1 & 3 as above and the remaining issues are being dealt with hereinafter:—

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal?
2. Whether the punishment awarded is proper and legal?
3. Whether the management is entitled to lead evidence before this Tribunal?
4. Whether the termination/action taken against the workman is justified on the facts of the case?
5. Relief and costs?

FINDINGS WITH REASONS:

8. No oral evidence has been led by either party. Management has proved six documents Ex. M/1 to Ex. M/6 which have been admitted by the other party. Workman has not produced any document in support of his case. The D.E. file which has not been challenged is also on record.

9. While going through the report of the Enquiry Officer (Ex. M/5) I find that the Enquiry Officer has found as follows in para 9(b) of his report:—

“Regarding over issuing of coal to the road sale parties, the accused workman had stated that the road side parties in the four cases under reference were not

issued any excess coal. In support of his this contention, the workman demanded for production of DO. Register maintained at Dhanpuri OCM which produced before the enquiry officer by the M.R. This register was being maintained by one Shri A. K. Das, Clerk of Dhanpuri OCM. This register contained the details of D.O. entries, subsequent issue of coal as per individual challans and finally arriving at the figures of coal still due to the party. While entering the details of the coal issued to the parties in the four cases under reference, Shri Das had corrected the calculation mistakes committed by Shri S. S. Singh and he had entered the corrected figures of issue of coal and balance coal to be issued to the concerned party. The M.R. accepted that issue of coal to the parties is done as per the records of this register and he accepted on perusal of this register before the Enquiry Officer and the other parties in enquiry that no coal was over issued to the concerned four road side parties."

10. The Enquiry Officer has also come to the following conclusion in para 13 A, B & C:—

- A. It has clearly come out in the course of enquiry, which has also been accepted by the accused workman that he had factually under recorded the net weight of the road sale trucks as detailed in the para 1 to 4 of the charge sheet No. WCL/SAM/D/C-2/804, dated 10-9-85. Whether the mistake of under recording of net weight was accidental or deliberate, is a difficult decision to arrive at. At the same time the accused workman's contention that the under recording of net weight was only a calculation mistake/slip of pen cannot be accepted at its face value and accordingly it cannot be ruled out that the accused workman had some ulterior motive in under recording the net weight of road sale trucks under reference.
- B. No coal was over issued to the concerned road sale parties due to under recording net weight of trucks in the four instant cases.
- C. Excepting the 4 cases of under recording of net weight of road sale trucks clubbed under Charge Sheet under reference no other evidence could be produced by the management to substantiate the charge of habitual neglect of work by Shri Shankar Saran Singh. Based on the above conclusions it is reasonably proved that Shri Shankar Saran Singh is guilty of recording less weight of coal carried by road sale trucks in the four instant cases thus the charges of misconduct under clause 17(i)(a) against Shri S. S. Singh is established.

The other two sub charges namely over issuing of coal to road sale parties in the instant cases and habitual neglect of work a misconduct under clause 17(i)(f) of the Standing Orders are not established.

11. Thus the Enquiry Officer came to the conclusion that the delinquent workman is guilty of recording less weight of coal carrying by road sale parties and trucks which amounts to misconduct under Cl. 17(i)(a). The Enquiry Officer has also held that the other charges have not been proved.

12. The workman has drawn my attention towards relevant passages for transit and simply pointed out that there is clerical error in recording weight I am inclined to accept his version. There does not appear to be any malafide. This is a bonafide mistake and hence the punishment is excessive. It cannot be justified on the facts of this case.

13. The workman is therefore entitled to be reinstated but in the circumstances without any back wages, but all other benefits with continuity in service. I think this is a sufficient punishment. Reference is accordingly answered as follows:

The action of the management of Dhanpuri Oreicast Mines of S.F.C. Ltd. in dismissing their workman Shri Shan-

kar Saran Singh, Clerk Grade III from services vide letter No. SECL/SAM/D/86/678 dated 11-2-1986 is though legal but not justified on the facts of the case. Workman is entitled to be reinstated in service without back wages, but with all other benefits and continuity in service. No order as to costs.

V. N. SHUKLA, Presiding Officer
[No. I-21012/38/88-D.IIB/D.IV(B)]

का.प्र. 277.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गोरगवारी कोलवारी आफ इन्डिया ली. एल. के प्रबन्धकों के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24 दिसम्बर, 1991 को प्राप्त हुआ था।

S. O. 277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Ghorawari Colliery of W.C. Ltd. and their workmen, which was received by the Central Government on the 24-12-91.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT JABALPUR (M.P.)

Case No. CGIT/LC(R)(37)/1991

PARTIES :

Employers in relation to the management of Ghorawari Colliery of W.C. Ltd., P.O. Ghorawari Khurd, District Chhindwara (M.P.) and their workman, Shri Bhaiyalal S/o Tulsiram, Clipman, represented by M.P.K.K.M.P. (HMS), P.O. Junnardeo, District Chhindwara (M.P.).

APPEARANCES :

For Workman—None.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mine DISTRICT : Chhindwara (MP)

AWARD

Dated : December, 13th 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/388/9-IR (Coal-II) Dated 16-3-1991, for adjudication of the following dispute:—

"Whether the action of the management of Manager, Ghorawari Colliery WCL, Kanhan Area, P.O. Ghorawari Khurd, Dist. Chhindwara (M.P.) in retiring Shri Bhaiyalal, S/o Tulsiram, Clipman of Ghorawari Colliery of Kanhan Area of WCL w.e.f. 1-7-1990 without giving any consideration to his date of birth recorded as 27-6-1934 in the School Leaving Certificate produced by him is justified? If not to what relief the concerned workman is entitled to?"

2. Statement of claim on behalf of the workman was received by post vide proceedings dated 9-4-91. Management filed its statement of claim on 29-8-91. Next date was fixed for filing of rejoinder by the workman on 12-12-1991 on which date neither the workman nor representative of the workman appeared nor rejoinder has been filed/received on behalf of the workman.

3. Workman did not care to participate in the proceedings on any dates fixed i.e. on 9-4-91, 3-6-91, 29-8-91 and 12-12-91 except that a statement of claim was sent on his behalf by post.

4. In the circumstances, it appears that the workman has no interest in the case. I, therefore, record a No Dispute Award. Parties to bear their own costs.

V. N. SHUKLA, Presiding Officer

[No. L-22012/388/90-IR(C.II)]

का.मा. 278.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बिजुरी कोलियरी और हसदेव ऐरिया आफ एस. आई.सी.एन. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद से केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24 दिसम्बर, 1991 को प्राप्त हुआ था।

S.O. 278.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bijuri Colliery of Hasdeo Area of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 24-12-91.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)/(55)/1988

PARTIES:

Employers in relation to the management of Bijuri Colliery of Hasdeo Area of S.E.C.Ltd., P.O. Bijuri Colliery, District Shahdol (M.P.) and their workman, Shri Padam Narayan Pandey S/o Shri Indranarayan Pandey General Mazdoor, represented by M.P.K.M.S(HMS), Hasdeo Area, Post South Jagrakhand Colliery, District Surguja (M.P.).

APPEARANCES:

For workman—Shri N. L. Pandey.

For Management—Shri R. Menon, Advocate.

INDUSTRY : Coal Mining DISTRICT : Shahdol (M.P.)

AWARD

Dated : December 13th, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-21012/8/88-III(B) Dated 28/4-6/6/1988, for adjudication of the following dispute:—

SCHEDULE

“Whether the action of the management of Bijuri colliery of Hasdeo Area of S.E.C.Ltd. in terminating the services of their workman Shri Padam Narayan Pandey S/o Shri Indranarayan Pandey, General Mazdoor w.e.f. 7-11-1984 is justified. If not, what relief is the workman entitled to?”

2. Facts leading to this case are that the workman concerned, Shri Padam Narayan Pandey, was appointed by the Sub-Area Manager, Bijuri Colliery vide letter dated 26-12-1981 as casual worker. This appointment was for a period 26-12-81 to 31-1-82. He continued to work and his services were dispensed with by an order dated 19-7-82. Again he was appointed on 1-9-82 afresh as Casual Mazdoor. But on some charges his services were dispensed with vide order dated 7-11-1984. This order is in question and the same has been referred to this Tribunal, for adjudication.

3. The workman has challenged the order of termination contending that he has worked for more than 190 days in permanent nature of mining job. According to Standing Orders he became a permanent worker of the Colliery and his services could not be terminated without conducting an enquiry. Therefore his services have been wrongly terminated 91 GI/92—8

by the management. The termination of the workman without an enquiry amounts to retrenchment under Sec. 2(oo). He has neither been given notice, notice pay or retirement compensation as required under Sec. 25-F of the I.D. Act, hence his termination is void ab initio. He is entitled to be reinstated with all back wages and consequential benefits with 12% interest thereon.

4. The management has contended that the workman was a casual worker engaged on casual nature of job for a specific period. But since he misbehaved with certain persons and his work was not satisfactory his services were dispensed with earlier also and finally vide order dated 7-11-1984. Since he was a casual mazdoor there was no need of any departmental enquiry. However, if the Tribunal finds that the management should have conducted an enquiry, it may be permitted to prove the misconduct before this Tribunal. Management's action is justified and the workman concerned is not entitled to any relief whatsoever. Reference is liable to be rejected and be accordingly rejected.

5. Parties were heard on the question whether the management having not given any charge-sheet to the workman and having not made any departmental enquiry is entitled to lead evidence in relation to the misconduct of the workman. This Tribunal vide order dated 12-11-1990 held that the management is entitled to lead evidence to prove misconduct of the workman before this Tribunal. the management was permitted to do so and the workman was also directed to lead evidence in rebuttal.

6. Management did not adduce any evidence to prove misconduct of the workman despite repeated adjournments granted. Hence the management's case was closed. Workman also has led no evidence.

7. During the course of arguments Shri N. L. Pandey, representative of the workman, has stated in presence of Counsel for management that the workman would be satisfied if he is reinstated without back wages, but with continuity in service, with an assurance that the workman shall not commit such misconduct. The case was thereafter closed for award.

8. The management has failed to prove misconduct. But in view of the above statement of Shri N. L. Pandey, representative of the workman, and in the interest of justice the management is directed to reinstate the workman with continuity in service but without any back wages. No order as to costs. Award is given accordingly.

V. N. SHUKLA, Presiding Officer

[No. L-21012/3/88-D.III(B)]

का.मा. 279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुराकाखार कोलियरी आफ डब्ल्यू. सी. एन. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-12-91 को प्राप्त हुआ था।

S.O. 279.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Surakachhar Colliery of W.C. Ltd. and their workmen, which was received by the Central Government on the 24-12-91.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)/(102)/1987

PARTIES :

Employers in relation to the management of Surakachhar Colliery, Western Coalfields Ltd., P.O. Bankimongra,

District Bilaspur (M.P.) and their workman, Shri Firat Ram S/o Jailal, Line Mazdoor, represented through the Chhattisgarh Khadan, Karkhana Mazdoor Union, Bankimongra, P.O. Bankimongra, District Bilaspur (M.P.).

APPEARANCES:

For Workman—Shri Rambilash Shobhnath

For Management—Shri R. Menon, Advocate.

INDUSTRY : Coal Mine DISTRICT : Bilaspur (M.P.)
AWARD

Dated : December, 12th, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012/91/85-DV/D.III(B) Dated 8-7-1987, for adjudication of the following dispute:—

“Whether the action of the management of Surakachhar Colliery of Western coalfields Ltd., in terminating the services of Shri Firat Ram S/o Jailal, Line Mazdoor is justified? If not, to what relief the workman is entitled?”

2. Parties filed their respective pleadings, documents, as many as five issues were framed. Parties vehemently contested the dispute and after hearing the parties orders on preliminary issues were passed on 16th November, 1990 that the enquiry is vitiated and the management was directed to adduce evidence to prove misconduct against the workman before this Tribunal.

3. Parties instead of adducing evidence on merits arrived at the following compromise at Bilaspur on 3-12-1991:—

“The workman shall be reinstated within 2 months from today without any back wages with continuity of service for the purposes of Gratuity only.”

4. Parties prayed that an award be passed in terms of compromise arrived at between the parties. The above terms of compromise appear to be just and fair and in the interest of the workman. I therefore record my award in terms of compromise quoted above and make no order as to costs.

V. N. SHUKLA, Presiding Officer

[No. L-22012/91/85-DV/D.III(B)]

का.प्रा. 280.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार कुमारखेला ओसीपी प्रा. मै. ई.सी.एस. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-91 को प्राप्त हुआ था।

S.O. 280.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kumarkhela OCP of M/s. F.C. Ltd. and their workmen, which was received by the Central Government on the 26-12-91.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL, ASANSOL

Reference No. 42/90

PRESENT:

Shri N. K. Saha, Presiding Officer.

PARTIES:

Employers in relation to the Management of Kumarkhela OCP of M/s. E.C. Ltd.

AND

Their workman.

APPEARANCES:

For the Employers—Sri P. K. Das, Advocate.

For the Workman—Sri B. Kumar, Jt. Secretary of the Union.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 17th December, 1991

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(80)/90-IR(C.II) dated 14-9-1990.

SCHEDULE

“Whether the action of the management of Kumarkhela OCP of M/s. ECL in denying employment to Sri Ramu Maihi, husband of Jate Mangali Maihain Ex Wagon Loader, is justified? If not, to what relief the workman concerned is entitled?”

2. The case is called today (17-12-91) for hearing. At this stage Sri B. Kumar the representative of the union submits that the concerned workman is not taking interest in proceeding with the case. As such he has no instruction from the union to proceed with the case. He makes endorsement (no instruction).

3. In the circumstances I find that there is no other alternative but to pass a no dispute award and accordingly a no dispute award is passed in this case.

N. K. SAHA, Presiding Officer

[No. L-22012/80/90-IR(C.II)]

का.प्रा. 281.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार मोहन कोलपरी प्रा. उद्योग.सी.एस. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-12-91 को प्राप्त हुआ था।

S.O. 281.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Mohan Colliery of W.C. Ltd. and their workmen, which was received by the Central Government on 24-12-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

— Case No. CGIT/LC(R)(30)/1986

PARTIES :

Employers in relation to the management of Mohan Colliery of W.C.L. P.O. Junnardeo, District Chhindwara (M.P.) and their workman, Brilal, represented through the Bhartiva Kovla Khadan Mazdoor Sangh (BMS), P.O. Chandametta, District Chhindwara (M.P.)

APPEARANCES :

For Workman—Shri R. S. Rathor.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mining

DISTRICT : Chhindwara
(MP)

AWARD

Dated, the 11th December, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012(5)/85-D.V dated 10-2-1980, for adjudication of the following dispute :—

"Whether the action of the management of Mohan Colliery of Western Coalfields Limited, Kannan Area in not fixing Shri Brijlal as a water supplier in Cat. I and not paying him the wages as per NCWA is justified? If not, to what relief the worker is entitled?"

Facts leading to this case are that the workman is supplying water to various employees of the management i.e. Mohan Colliery of M/s. W.C. Ltd. Kannan Area.

2. The workman says that he is the employee of the management. Therefore, he could well be the member of the Union which has sponsored the dispute and he is the member of the Union.

3. He has been supplying water to the staff of the Colliery and the payment is made directly by the Colliery management for his manual work. Though no appointment letter has been issued but he is supplying the drinking water to the staff, employees of the Colliery, at the instance of the management and he is very much an employee of the management. Though he is paid by the management but the payment is at arbitrary rate. He is governed by the NCWA. Other Watermen are employed as workmen of the management and they are paid Cat. I wages to which he is also entitled. Award be passed accordingly.

4. The management has not only denied the claim of the workman but his right of being member of the Union because according to it Shri Brijlal is not a workman of the management and hence cannot be a member of the Union. There is no employer-employee relationship. His name does not find place in statutory registers. Some of the employees are utilising his services to supply water as domestic servant. N.C.W.A. does not employ to him. He is paid as per contract. Reference is, therefore, liable to be rejected.

5. Reference was the issue in this case.

REASONS FOR MY FINDINGS :

6 Management has filed one document Ex. M/1 while the workman has not filed any document. The workman has, however, examined two witnesses viz. Brijlal as WW-1 and Shankar as WW-2. Management has proved the document Ex. M/1 which appears to be the voucher.

7. WW-1, Brijlal, workman concerned, himself admitted that he gets payment for supplying water as per Ex. M/1. This document itself shows that the payment is made on the basis of supplying water.

8 WW-2, Shankar, has come out to say that though he is a Water Carrier he is an employee of the management and he draw wages as Cat. I. He says that he was employed when the Colliery was private. He is working since the time of the predecessor of the mine. This case stands on different footing. Even then he has not filed the relevant document to prove his case. Certain references of awards etc. have been made in the written arguments. One photo copy of award given by the Arbitrator, Shri G. N. Shah is on record, but the facts of the case of Shri Ghudan is entirely different. He was supplying water to underground and all workers engaged on the surface in Damua East Colliery. He had also produced two note books to show that he had been working regularly and his attendance was noted by the clerk of the management. His case cannot be equated with the case of the present workman. The present workman cannot be said to be the employee of the management. He is employed on contract and being paid 0.80 per Kamar. This payment is too low which call for review. With this observation reference is answered against the workman. Workman is not entitled to any relief. No order as to costs. Award is given accordingly.

V. N. SHUKLA, Presiding Officer

[No. L-22012/75/85-D.V.]

का.प्रा. 282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेजदिह कोलियरी ग्राफ ई.सी.ली. के प्रबन्धतन्त्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचवट की प्रकाशित करती है, जो केन्द्रीय सरकार की 26-12-91 की प्राप्त हुआ था।

S.O. 282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bejdih Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 26-12-1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 47/89

PRESENT :

Shri N. K. Saha, Presiding Officer.

PARTIES :

Employers in relation to the management of Bejdih Colliery of M/s. E.C. Ltd.

AND

Their Workman.

APPEARANCES :

For the Employers—Shri B. N. Lala, Advocate.

For the Workman—Sri B. Kumar, Jt. Secretary of the Union.

INDUSTRY : Coal

STATE : West Bengal

AWARD

Dated, the 17th December, 1991

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(84)/89-IR (C-II) dated 21-11-1989.

SCHEDULE

"Whether the action of the Management of Bejdih Colliery of Sitarampur Area of M/s. E.C. Ltd., in superseding Sri Sitaram Yadav, Overman in the matter of promotion to the post of Sr. Overman and not allowing him promotion, was justified? If not, to what relief the workman was entitled and from what date?"

2. The case is called today (17-12-91) for hearing. At this stage Sri B. Kumar the representative of the union submits that the concerned workman is not taking interest in proceeding with the case. As such he has no instruction from the union to proceed with the case. He makes endorsement (no instruction).

3. In the circumstances I find that there is no other alternative but to pass a no dispute award and accordingly a no dispute award is passed in this case.

N. K. SAHA, Presiding Officer

[No. L-22012/84/89-IR (C-II)]

का प्रा. 283.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सामला कोलियरी ग्राफ ई.सी.ली. के प्रबन्धतन्त्र के संबंध नियोजकों और उनके कर्मचारों

के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-12-91 को प्राप्त हुआ था।

S.O. 283.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Samla Colliery of E.C. Ltd., and their workmen, which was received by the Central Government on 26-12-1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 28/90

PRESENT :

Shri N. K. Saha, Presiding Officer.

PARTIES :

Employers in relation to the Management of Samla Colliery of M/s. E.C. Ltd.

AND

Their Workman.

APPEARANCES :

For the Employers—Sri P. K. Das, Advocate.

For the Workman—Sri B. Kumar, Jt. Secretary of the Union.

INDUSTRY : Coal

STATE : West Bengal

AWARD

Dated, the 18th December, 1991

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(16)/90-IR (C-II) dated 9-7-1990.

SCHEDULE

"Whether the action of the management of Samla Colliery of M/s. ECL in not referring the case of Shri Jamuna Singh, CB Checker to the Appex Medical Board and thus depriving him of benefit of Clause 9.4.3 of NCWA-III is justified. If not, to what relief the workman is entitled?"

2. The case is called today (18-12-91) for hearing. At this stage Sri B. Kumar the representative of the union submits that the concerned workman is not taking interest in proceeding with the case. As such he has no instruction from the union to proceed with the case. He makes endorsement (no instruction).

3. In the circumstances I find that there is no other alternative but to pass a no dispute award and accordingly a no dispute is passed in this case.

N. K. SAHA, Presiding Officer

[No. L-22012(16)/90-IR (C-II)]

RAJA LAL, Desk Officer

नई दिल्ली, 30 दिसम्बर, 1991

का.पा. 284.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बसन्तीमाता कोलियरी प्राफ मैसर्स बी.सी.सी.एल. के प्रबन्धन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं.-2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-12-91 को प्राप्त हुआ था।

New Delhi, the 30th December, 1992

S.O. 284.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Basantimata Colliery of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 27-12-1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 AT DHANBAD

Reference No. 32 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Basantimata Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen—Shri Samit Chatterjee, Area Asstt. Secretary, R.C.M.S.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dhanbad, the December, 1991

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(253)/86-D.III (A), dated, the 15th January, 1987.

SCHEDULE

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that the management of Basantimata Colliery of M/s. Bharat Coking Coal Limited should regularise their workmen, Shri Nanku Manjhi, as Night Guard with retrospective effect and with payment of wages for his idle period from October, 1984 is justified? If so, to what relief is the said workman entitled?"

2. The concerned workman namely Shri Nanku Manjhi claims regularisation as Night Guard on the ground that he worked as such from September, 1981 to September, 1984 regularly. He claims to have worked as Night Guard for complete 3 years. Thus he acquired the status of permanent Night Guard. He in his W. S. stated that he was appointed on 31-1-73 prior to take over of the Colliery by the erstwhile management. According to him he was declared as Night Guard due to exigency of work from September, 1981 and he continued working regularly as Night Guard till September, 1984. The concerned workman has stated that he was arbitrarily stopped from duty with effect from October, 1984 and he was neither issued any chargesheet nor any letter of explanation was sent. When the workman protested against the said arbitrary action of the management he was verbally asked to go to work as loader which the workman declined as he was overdue to be regularised as Night Guard. Accordingly it has been prayed that the management of Chanch Victoria Area be directed to reinstate the workman in service of the company as Night Guard and that he be paid for the forced idle period from October, 1984 till the date of resumption of duty. The cost of the proceeding has also been demanded.

3. On the other hand the management through the W.S. has stated that the concerned workman was allowed to work as Night Guard only on compassionate and humanitarian ground for he was not keeping good health. He was allowed this work on the recommendation of the Attending physician. It was stated that Nanku Manjhi a Miner was terminated by the company due to his long unauthorised absence from his duty but subsequently he was taken back in the employment of the management as badli miner on and from 11-1-81. It

was stated that Nanku Manphi was a sick person and in January, 1982 he fell seriously and was referred to Central Hospital for treatment. In the month of February, 1982 he was released from the hospital and approached the management for light duty. The management took compassionate view and allowed him to work as Night Guard initially for 15 days which was subsequently extended to 3 months. Thereafter he had been falling sick intermittently and receiving treatment and the management also allowed him night duty from time to time merely on humanitarian ground.

4. As per statement the concerned workman again fell ill seriously in October, 1983 and was referred to the Central Hospital for treatment. He received treatment from 21-10-83 to 19-12-83. He was declared fit on 20-12-83 and discharged from the hospital. However, he was advised by the management to continue his treatment and he was also recommended surface duty. But since the management could not provide him surface duty for indefinite period he was told to continue his treatment and report for duty as soon as he was fully cured. According to the management the concerned workman did not report for duty since then and the management could know his whereabouts only in the year 1986 when industrial dispute was raised by the union demanding regularisation of the concerned workman as Night Guard. Lastly it was stated by the management that the concerned workman has not been terminated from the service and is still on the roll of the colliery and that if he reports for duty in his original post as miner the management is still prepared to allow him to work.

5. Admittedly, the concerned workman was appointed as Miner prior to taking over of the Colliery and Ext. W-4 will bear out testimony of this fact. In order to appreciate the rival contention we are required to go through some of the documents already on record. Ext. M-5 and M-5/1 will show that the concerned workman was hospitalised for his treatment in Basantimata Colliery hospital and the doctor while discharging the patient had advised for light duty. On the basis of that recommendation the concerned workman was given duty of Night Guard for a period of fortnight. This can be borne out from Ext. M-4 i.e. a letter addressed by the Agent to the Personnel Manager, Chanch Victoria Area Barakar. This will show that the concerned workman after expiry of 2 weeks light duty he had applied for extension of 3 months for such duty. Ext. M-1/1 is the photo copy of the application of the concerned workman requesting for 3 months light duty. In the petition it has been stated in so many clear words that he was suffering from long time and was now fit for duty. The application is quite clear that the Nanku Manphi the concerned workman was given the duty of Night Guard only because of his illness. The workman has not denied that he was a patient of Tuberculosis. In such view of the matter the statement of the concerned workman vide para 4 of the W.S. that he was deployed as Night Guard due to exigency of work seems to be palpably wrong. The case of Nanku Manphi for 3 months light duty was referred to the G.M. Chanch Victoria Area for consideration (Ext. M-2). It appears that prior to that the concerned workman was already allowed to one month light duty as Night Guard duty in the surface on 18-2-82 and he was further directed to report for his duty. There it has been mentioned that he was a T.B. patient. In this connection Ext. M-3 can also be looked into which is the photo copy of the office order. Ext. M-1/2 is yet another photo copy of the application of the concerned workman stating that he was on sick leave and was referred to Central Hospital Dhanbad on 25-11-83 for treatment and from where he was released on 19-11-83 with recommendation for light duty. The concerned workman WW-1 himself stated that he was taken ill in 1981 and was given duty of Night Guard on the certificate of the doctor. He again fell ill in October, 1983 and was referred to the Central Hospital, Dhanbad. All these documents and the evidence suggests that Shri Manphi had continue illness and he remained on treatment intermittently for long time. In this view of the matter his claim that he discharged the duties of Night Guard continuously for 3 years falls to the ground like a house of cards. The concerned workman has admitted in his evidence that he was absent for sometime in 1981. This will simply suggest that he was absent without any leave.

6. Ext. M-1 is another important document which in my opinion cannot be ignored. This is an office order of Shri

R. P. Sinha, Dy. Personnel Manager and it is dated 20-10-81. This document will reveal that as many as 17 workers including the concerned workman remained absent without any authority and hence their names were removed from the roll of the company. However, they were again empanelled as badli miner and their employment depended upon the availability of badli vacancies. In this connection the evidence of MW-1 can also be looked into. The witness Shri Sadan Chandra Paul, Dy. Personnel Manager has proved a number of documents which have been marked Ext. M-1 to M-5/1. He stated that for performing security jobs there are CIST personnel. According to him they have got their own security guard and they cannot engage to that post a man always ailing. According to him the demand of the concerned workman was not justified. The concerned workman was never prohibited from doing his original job. It was stated further that the services of the concerned workman has not been terminated.

7. I find that one important witness has been examined on behalf of the workmen and he is Shri D. N. Roy, Night Guard. This witness has stated that he was working as Night Guard with the concerned workman from 1981 to 1984 regularly but his statement of the witness has been raised in the evidence of the concerned workman himself when he has stated that he was absent from duty for sometimes in 1981. In cross-examination the witness stated that the Night Guard and other workmen get their pay slip and on the basis thereof they are paid their wages. They also get bonus card on the basis of which bonus is paid. He further claimed that Bonus Card contains the number of attendance on the basis of which bonus is paid. If the concerned workman was very sanguine of his regular attendance for complete 3 years then he should have produced the pay slip or the bonus card to substantiate his contention. But I find that no such paper has been filed.

8. On the basis of the discussion made above I am to hold the view that the concerned workman cannot be regularised as Night Guard. He says that he was stopped from October, 1984 but there is nothing to show that he reported for his original job and he was disallowed to join. Since the concerned workman was given the duty of Night Guard on compassionate ground on the account of his illness, he could not have been permitted to continue on that duty for an indefinite period. At his very stage we may refer back to the evidence of the concerned workman WW-1. The witness in his cross-examination stated that he cannot work as Miner/loader. According to him the job of Night Guard is to catch hold of thief. He also stated a sick man cannot catch hold of the thief but he can raise alarm as a Guard. Admittedly he was not trained as Guard. Lastly he stated that if he was compelled to work as Miner/loader the management may consider for giving employment to his son in his place because he himself was not in a position to do the work of miner/loader. His son is aged about 25 years. As stated above the concerned workman cannot be regularised as Night Guard and the company is ready to post him as badli miner. According to own statement of the concerned workman he is not in a position to work as Miner and in the circumstances of the case the management is directed to consider the case of the son of the concerned workman for his employment in place of the concerned workman.

In the result, I find no merit in the case of the concerned workman for his regularisation as Night Guard and the Award is answered accordingly with necessary direction to the management to consider the case of the son of the concerned workman as indicated above within one month from the date of publication of the Award.

This is my Award.

B. RAM, Presiding Officer

[No. L-20012/253/86-D.III(A)/IR (Coal-I)]

का.अ. 285.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भूलनबारी कोलियरी आफ बोबरा एरिया, नं. 11 आफ सैसंस बी.सी.सी.एल. के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं.-2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-12-91 को प्राप्त हुआ था।

S.O. 285.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bhulanbararee Colliery of Bhowra Area No. XI of M/s. BCCL and their workmen, which was received by the Central Government on 27-12-1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947
Reference No. 38 of 1988

PARTIES :

Employers in relation to the management of Bhulanbararee Colliery of Bhowra Area No. XI of M/s. B.C.C. Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen—Shri J. P. Singh, Advocate.

On behalf of the employers—Shri G. Prasad Advocate.

STATE : Bihar INDUSTRY : Coal
Dhanbad, the 12th December, 1991

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012 (119)/87-D.IV (B) dated, the 12th February, 1988.

SCHEDULE

“Whether the action of the management of Bhulanbararee Colliery of Bhowra Area No. XI of M/s. B.C.C. Ltd., P.O. Bhowra, Dist. Dhanbad in dismissing Sri Sudama Kora, MCL, working as Electrical Helper from service, is justified? If not, to what relief the workman is entitled?”

2. The concerned workman was issued chargesheet dated 10-4-83 (Ext. M-3) alleging that he secured employment under Voluntary Retirement Scheme in place of Bimala Kora by playing fraud upon the management. It was stated that Smt. Bimala Kora declared the concerned workman as her son which was subsequently found to be untrue. It was found that the concerned workman was not the real son of Bimala Kora. Accordingly chargesheet was issued. Actually it so happened that the concerned workman after his employment as piece-rated miner filed a representation dated 22-6-82 along with a photo copy of adoption deed with a request to change his surname and address. The deed of adoption disclosed that the concerned workman was an adopted son of Smt. Bimala Kora and not her real born son and that led to further enquiry by the management which resulted into submission of chargesheet and lastly he was dismissed vide order dated 26-5-86 (Ext. M-4).

3. Both the parties have filed their separate W.S. The concerned workman was admittedly appointed under Voluntary Retirement Scheme of the management in place of late Bimala Kora, Shale Picker. It is stated on behalf of the workmen that the concerned workman was put on probation for a period of one year after his appointment and resumption of duty. During this probationary period necessary enquiries about the character and relationship with late Bimala Kora were made by the management and after due satisfaction the concerned workman was allowed to continue his duty. It is stated further Bimala Kora had no son or daughter and she had adopted the concerned workman as her son in the year 1975 and since then he had been living with late Bimala Kora and always treated her as her mother. It is further stated that the concerned workman submitted a petition to the management with a request for change of his surname, father's name and home address on account of unavoidable reason after the death of late mother Bimala

Kora. It is stated that late Smt. Bimala Kora was surviving by none in her family and she left no movable and immovable property at her native village. In this way it was stated that the concerned workman did not commit any fraud for anything was concealed and he was unnecessarily chargesheeted and ultimately dismissed without any reason. According to the workmen his dismissal was illegal and unjustified. It has been prayed that the concerned workman be reinstated in service with full back wages and other benefits with continuity of service.

4. The management stated that late Smt. Bimala Kora was a Shale Picker in Bhulanbararee Colliery who while retiring under Voluntary Retirement Scheme declared Shri Sudama Kora the concerned workman as her son and requested the Personnel Manager (B) Area through her application dated 7-4-81 (Ext. M-24) for employment of Sudama Kora as Miner/Loader/Stone Cutter in her place which was accepted by the Management.

5. Subsequently to the said application she also filed a petition in the prescribed proforma declaring Shri Sudama Kora as her son which was also countersigned by the concerned workman as Sri Sudama Kora. Sri Sudama Kora also obtained a certificate from the Mukhiya, Gram Panchayat, Bararee Dist. Dhanbad, stating therein that Sudama Kora was the son of said Smt. Bimala Kora of village Ledha Bera, P.S. and Dist. Purulia. According to the management the said certificate was quite meaningless for village Ledha Bera was beyond the territorial jurisdiction of Bararee Gram Panchayat.

6. Subsequent to his appointment the concerned workman filed an application mentioning inter-alia that he was the son of Shri Lal Singh, Vill. Latearogonj, P.O. Karwashi, P.S. Sahar, Dist. Bhojpur (Arrah) and was adopted by Smt. Bimala Kora. By the said petition he requested for the change of his surname, address and parentage. According to the management the concerned workman Shri Sudama Kora after having obtained employment fraudulently wanted to change his surname, father's name and address. It was stated that the purported adoption deed was illegal, void and invalid and was created with a malafide intention to enter into the employment of BCCL.

7. Shri Sudama Kora submitted his explanation to the chargesheet which was found not satisfactory and hence there was departmental enquiry. The report submitted by the Enquiry Officer was considered and accepted and ultimately the concerned workman was dismissed.

8. At the very outset it may be mentioned that the learned counsel for the workmen had conceded to the fairness and propriety of the domestic enquiry vide order dated 29-10-91 and hence the matter was heard on merit.

9. In view of the facts stated above the only point for consideration is whether the action of the management in dismissing Shri Sudama Kora was justified.

10. Admittedly, Shri Sudama Kora was employed under voluntary retirement Scheme in place of Smt. Bimala Kora. Smt. Bimala Kora filed a petition in April, 1981 expressing her intention to seek voluntary retirement for appointment of her son. Subsequently as required under the rules she filed her declaration in the prescribed form declaring Shri Sudama Kora as her son. Sudama Kora also countersigned the same. In the declaration form the lady has simply stated that Sudama was her son. She did not state that Sudama was a son born from her womb. I think the declaration form also does not speak like that and therefore she was not required to specify as to whether Sudama Kora was born from her womb. In other words there is no separate column to signify such distinction. The concerned workman claimed himself as the adopted son of Smt. Bimala Kora. He was examined before the Enquiry Officer where he claimed to have been taken in adoption in the year 1975. However, he expressed his ignorance as to whether any employment can be sought on the basis of any adoption deed. The photo copy of the deed of adoption dated 4-2-82 has been filed showing that Sudama Kora was adopted in the year 1975.

11. The learned counsel for the management submitted that the concerned workman never disclosed during his employment that he was an adopted son of Bimla Kora and he after the death of the lady wanted to assume his previous surname and address and in this way he acted fraudulently in securing employment in the organisation of BCCCL. Apart from that the deed of adoption has been assailed on several ground relying upon the decisions reported in AIR 1965 (SC) page 333, AIR 1990 NOC 13 (Orissa), AIR 1989 Madras 3341 and 1988 BLJ (Pat) page 71. While relying on these authorities the learned counsel for the management submitted that adoptive father has no right to adopt except with the consent of his wife although the consent need not necessarily be expressed. So where adoption ceremony are performed the wife has to take prominent part in the same and in that there may not be any difficulty of proving his consent in such case. It was also pointed out that Datta Hawan Ceremony was essential ingredient for valid adoption and that the child to be adopted must be actually given and taken in adoption by the parents or the guardian concerned. It was pointed out that the deed of adoption does not disclose that any such ceremony was observed. The learned counsel further pointed out that Shri Sudama Kora was medically examined in April, 1981 and there his age has been assessed to be 24 years. When Shri Kora was aged 24 years in the year 1981 then in the year 1975 when the alleged deed was executed, he was definitely aged more than 15 years and the law does not provide that a child aged more than 15 years can be taken in adoption. I think the contention of the learned counsel for the management challenging the genuineness for validity of adoption deed cannot be appreciated for the simple reason that the deed cannot be challenged at this forum. But in the light of the argument so advanced on behalf of the management it becomes a bit necessary to lay down the status of an adopted son in the family of adoptive father. The son to be given in adoption is actually transferred from the family of natural parents to the family of adoptive parents where he, by fiction of law, assumes the status of a fullfledged son of adoptive father and becomes entitled for all the benefits of a natural born son. Thus there remains no distinction between adoptive son and natural born son. It was the declaration of Smt. Bimla Kora that the concerned workman was her son and in my opinion it was not at all obligatory, as the declaration form stands, to state that Sudama Kora was her adopted son. Naturally in the circumstances Sudama Kora had no occasion to state that he was the adopted son of Smt. Bimla Kora. The Form also does not specifically provide to write down all such things.

12. Now the question arises as to whether Sudama Kora was an adopted son of Smt. Bimla Kora on the days he was appointed by the management. The deed of adoption was created on 4-2-82 wherein it has been recited that Smt. Bimla Kora adopted Sudama Singh on 25th January, 1975. But there is no such document of the year 1975. There is no evidence either oral or documentary that the concerned workman was adopted in the year 1975. In my opinion that was very very essential and specially when no document of adoption of 1975 was in existence. In the circumstances it can be said that the concerned workman was not the legal son of Smt. Bimla Kora in the year 1981 when Sudama Singh was appointed. Even during the course of enquiry no witness has been examined to state this fact that Sudama Kora was actually taken in adoption in the year 1975. Now the matter stands clarified when he had not status of a legal son then he could not have been given any employment under Voluntary Retirement Scheme. Definitely it was unwarranted on the part of Sudama Kora to file any representation for change of his surname, father's name and address.

13. From the facts stated and discussion made above it is true that Sudama Kora was not the legal son of Smt. Bimla Kora on the date of his appointment because the deed of adoption was executed subsequent to his appointment. In the circumstances I find no reason to answer the reference in favour of the workman. Accordingly the charge levelled

against the concerned workman has been proved and the order of dismissal is justified.

In the result, I hold that the action of the management of Bhulanbarua Colliery of Bhowra Area No. XI of M/s. B.C.C. Ltd., P.O. Bhowra, Distt. Dhanbad in dismissing Sri Sudama Kora, MCL, working as Electrical Helper from service is justified and consequently, the concerned workman is entitled to no relief.

This is my Award.

B. RAM, Presiding Officer

[No. 24012/119/87-D.IV(B)/TR(Coal-I)]

का.आ. 286—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, अमलाबाद कोलियरी आफ बोहरा एरिया XI आफ मैंगर्स बी.सी.सी.एल. के प्रबन्धन में संघर्ष नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (स-2), धनबाद के पंखाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-12-91 को प्राप्त हुआ था।

S.O. 286.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Amlabad Colliery of Bhowra Area of XI of M/s. BCCCL and their workmen which was received by the Central Government on the 27-12-91.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 273 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Amlabad Colliery of Bhowra Area XI of M/s. Bharat Coking Coal Ltd.

APPEARANCES :

On behalf of the workmen—Shri J. D. Lall, Advocate.
On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 17th December, 1991

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. I-24012(27)/87-D.IV(B), dated the 14th September, 1987.

SCHEDULE

"Whether the action of the Management of Amlabad Colliery of Bhowra Area-XI of M/s. B.C.C. Ltd., P.O Bhowra, Distt Dhanbad in not regularising Sri Dinesh Prasad as an Electrician in Cat. IV, is justified? If not, to what relief the concerned workman is entitled and from what date?"

2. The concerned workman Shri Dinesh Prasad Singh, wants regularisation as Electrician in Cat. IV with effect from 17-1-82 on the ground that he was an I.T.I. trained Electrician and also underwent apprenticeship training for a requisite period. He also claims to have possessed permit under

Indian Electricity Rule granted by the Government of Bihar.

3. W.S. was filed on his behalf wherein it is stated that he was appointed as Helper Trainee (Electrical) with effect from 17-1-81 in D.G. Project Amlabad Colliery and was regularised as Helper (Electrical) in Cat. II with effect from 17-2-82. It was submitted that though the concerned workman is I.T.I. Trained Electrician and possess valid permit to work as an Electrician under the provision of Indian Electricity Rule he was appointed as Helper training in Cat. I and then regularised as Helper in Cat. II after one year of his training which according to the concerned workman was most unfair labour practice on the part of the management. It was submitted that the concerned workman after one year training should have been appointed as an Electrician in Cat. IV to start with and his appointment as Helper is void and illegal. It was further contended that many other workmen were junior to him but they were appointed as Helper in D.G. Project Jealgora and have since then been regularised as Electrician in Cat. IV in the year 1985 itself but the concerned workman is still stagnating as Helper in Cat. II. The concerned workman made several representations from time to time for his regularisation as Electrician in Cat. IV which was duly recommended by his immediate superior officer but the management did not pay any heed to his request. Thus it has been prayed to hold that the action of the management in not regularising the concerned workman as Electrician Cat. V with effect from 17-1-82 was not justified. It has been further prayed that the Award be answered in favour of the workman and necessary order be given to the management to regularise the concerned workman.

4. W.S. has been separately filed on behalf of the management whereby it has been stated that there is cadre scheme and any person holding Matriculation certificate with ITI is recruited initially as Helper Trainee in Cat. I (One) for one year and thereafter he is promoted to the Electrical Helper in Cat. II. It is stated that during the period of probation he is required to pass the examination in different electrical parts conducted by the competent authority of the State Government and must obtain permit to enable him to carry on the Electrical Installation as required under Section 45 Indian Electricity Rules, 1956 and also Regulation 36 of the Coal Mines Regulation, 1957.

5. Admittedly, the concerned workman was appointed as Helper trainee on 17-1-81 and was regularised as Electrical Helper in Cat. II with effect from 17-1-82. The management stated that as the concerned workman could not obtain necessary electrical permit from the State Government he could not be legally authorised as Electrician under Regulation 36 of the C.M.R.s 1957 and as such his case for promotion as Electrician in Cat. IV could not be accepted.

6. Shri Dinesh Prasad has been examined as WW-1. He stated that he was a fullfledged electrician before he joined BCCL and he was also doing the work of Electrician since the time of his regularisation in Cat. II independently and regularly. He stated to hold the permit of Wireman certificate of H.T. Certificate licence. He has proved the Wireman's permit, Matriculation Certificate, National Trade Certificate granted by I.T.I., National Apprenticeship certificate which has been marked Ext. W-8, W-9, W-10, and W-11 respectively. In cross-examination the witness stated that he has not passed the examination of Wireman certificate of House wiring and underground installation. Admittedly he had passed the part of electrical installation. At this stage the learned counsel for the management submitted that there is cadre scheme/promotion rules for Electrical and Mechanical discipline which was finalised by the Promotion Policy Committee in a meeting held on 18th June, 1984. He also referred to NCWA-III Part II and urged that according to the scheme one year experience as Cat. I for Matriculate with ITI is necessary for promotion to Cat. II as Helper Electrician. It was further submitted for promotion to Cat. IV 3 years experience as Helper in Cat. II for literate and 2 years for Matriculate with ITI is required. Relying upon these schemes it was contended that the concerned workman could not have been regularised in Cat. IV after one year

of training. Further according to the provision contained under Section 45 of the Indian Electricity Rules, 1956 no Electrician Installation work can be carried out except by the Electrical contractor licenced in this behalf by the State Government and under the direct supervision of a person holding certificate of competency and by a person holding a permit issue or recognised by the State Government. A reference was also made to Regulation 36 of the C.M.R.s 1957. It was urged that according to the own statement of the concerned workman he passed the certificate of installation in the year 1986 and then how and under what circumstances he could have been regularised as Electrician in Cat. IV with effect from 17-1-82. In this connection my attention was also drawn towards the evidence of Shri M. Dubey, MW-1 who is an Electrical Executive Engineer in Amlabad colliery since 1988. Till 1985 he was Engineer (E&M) in the colliery and the concerned workman was working under him. The witness stated that for the post of Electrician the candidate must possess Wireman certificate and low and HT certificate for Mining and non-mining. He also stated that the concerned workman has not passed H.T. certificate. The witness was examined on 22-9-1989. He also stated that the workman obtained I.T. certificate and Wireman certificate and then his case for promotion was considered by the D.P.C. and he was accordingly recommended vide office order dated 30-11-1988 (Ext. M-2). I find that this fact has also been admitted by the concerned workman in his evidence when he stated that after passing his installation certificate in 1986, a D.P.C. was constituted and he was regularised as Electrician in Cat. IV in 1988. Ext. M-3 dated 8-12-88 is an order fixing pay of the concerned workman after his promotion in Cat. IV.

7. It is the further case of the concerned workman that after one year of training he should have been appointed as an Electrician in Cat. IV to start with and his appointment as Helper was void and illegal. In this connection it was urged on behalf of the management that there is a cadre scheme and policy decision has been formulated keeping in view of the provision of the Mines Act, 1952 and C.M.R. 1957 in which practical experience in Mine has been prescribed.

8. The concerned workman vide para-7 of the W.S. stated that since his regularisation as Electrical Helper in Cat. II has been working as Electrician regularly and continuously to the full satisfaction of the Station Incharge. Ext. W-3, W-5 and W-6 are the certificates granted by the Station Incharge regarding the quality and experience of the concerned workman in the field of Electricity. It may be noted that the certificate and recommendation alone cannot help promotion of an employee. The concerned workman claims to have been paid difference of wages for the period he worked as Electrician for the period from 28-11-84 to 28-11-88 during which period he worked as Electrician. Ext. W-13 is the photo copy of the letter dated 26-4-86 by the concerned workman requesting the Dy. C.M.E. Amlabad for difference of wages. Ext. W-12 is the recommendation of the Station Incharge in this respect. Ext. W-1 and W-2 are the calculation chart working out the difference of wages but there is no document to show that the difference of wages was allowed by the management. In this connection reference may be made to the evidence of MW-1, Shri M. Dubey. He stated that during training for electrician an employee is not paid the wages of Electrician. The concerned workman was being paid the wages of Electrical Helper during the time he was put under training for Electrician. He stated that the statement showing the difference of wages was prepared by him which have been marked Ext. W-1 and W-2. The witness further stated that the said statement under Ext. W-1 and W-2 were sent to the personnel department for payment of the difference of wages but it was not accepted and as such the concerned workman did not get the difference of wages as claimed by him. In this way according to this witness the workman did not get the difference of wages only because he was an Electrical Helper and not as fullfledged Electrician.

9. The concerned workman also stated that some other employees junior to him were regularised in Cat. IV but in

cross-examination he has denied to have seen the papers and certificate of the person who was junior to him and were regularised as Electrician in Cat. IV prior to his regularisation.

10. From the discussions made above I am of the view that the concerned workman was not holding requisite qualification for his regularisation as Electrician in Cat. IV after completion of one year of training as Electrician Helper. I find no merit in the case of the concerned workman and so I am to hold that he is not entitled to the relief claimed by him.

An award is passed accordingly.

B. RAM, Presiding Officer

[No. L-24012/27/87-D.IV(B)/IR(Coal-I)]

का.आ. 287.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, जनकुंदार ओपनकास्ट प्रोजेक्ट आफ मैसर्स बी.सी.सी.एल. के प्रबन्धतल से संबंध नियोजक और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण, (सं.-1), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-12-91 को प्राप्त हुआ था।

S.O. 287.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Junkundar Opencast Project of M/s. BCCL and their workmen which was received by the Central Government on the 27th December, 1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 145 of 1988

PARTIES :

Employers in relation to the management of Junkundar Opencast Project of M/s. B.C.C. Ltd.

Junkundar Opencast Project of M/s. B.C.C.Ltd.

AND

Their Workmen

APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY Coal.

Dated the 16th December, 1991

AWARD

By Order No. L-20012/130/88-D.3(A)/D-4(A), dated, the 31st October, 1988, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“Whether the action of the management of Junkundar Opencast Project, Chanch Victoria Area, No. XII of B.C.C.L. in dismissing Sri Ghasi Ram Munda, Wagon Loader, by letter No. Agent/JOCP/Administration/87/78 dated 15-1-87 is justified? If not, to what relief the concerned workman is entitled?”

2. The case of the management of Junkundar Opencast Project, as disclosed in the written statement-cum-rejoinder, details apart, is as follows:

Ghasi Ram Munda, the concerned workman, started absenting from duty from 11-2-1984 unauthorisedly. A

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chargesheet dated 3-5-1985 was issued to him calling explanation from him for his unauthorised absence from duty. On enquiry from the Medical Officer, it transpired that he reported him about his sickness and was referred to Kalla Hospital for his examination and treatment on 2-6-84. He did not report back after 2-6-1984 and remained absent from duty. Thereafter another chargesheet dated 24-7-85 was issued to him calling explanation from him for his unauthorised absence from duty. He did not submit any explanation nor did he report for duty. The management decided to hold domestic enquiry and Shri R. P. Mazumdar, Senior Personnel Officer of Junkundar Project, Chanch Victoria Area, No. XII, was appointed Enquiry Officer. The concerned workman initially did not attend the enquiry. Ultimately he appeared in the enquiry on 6-11-86 and the enquiry was conducted in his presence. He appointed Sri Arjun Pandey, his co-worker to assist him in the enquiry. The domestic enquiry was held in conformance to the principles of natural justice. He produced a document in the domestic enquiry purported to be a medical certificate in support of his defence that he absented from duty due to his sickness. He did not produce any certificate from Kalla Hospital to which he was referred for medical examination. He did not appear before the colliery doctor for his examination and verification of his illness. The medical certificate could not be relied on as the same was not corroborate with any other document. The domestic enquiry was held and he was found guilty of serious misconduct and hence he was dismissed from service by the competent authority.

3. The case of the concerned workman, as appearing from the written statement submitted on his behalf by the sponsoring union, Bihar Colliery Kamgar Union, briefly stated, is as follows:

The concerned workman was working as permanent Wagon Loader at Junkundar Opencast Project since long with unblemished record of service. He is a poor and illiterate workman. He absented from duty due to his illness. He intimated the management about his illness and despite this fact a false and frivolous chargesheet dated 24-7-85 was issued against him. He replied to the chargesheet denying the charges. Though his explanation was satisfactory, the management conducted a departmental enquiry. The enquiry was not held fairly and properly. He was dismissed from service by an unauthorised person. Thereafter the present industrial dispute has been raised by him through his union.

4. In rejoinder to the written statement of the sponsoring union, the management has denied and disputed the fact that the concerned workman absented from duty unauthorisedly due to illness. According to the management, his absence was deliberate and in the circumstances his dismissal from service is justified.

5. In rejoinder to the written statement, the sponsoring union has denied and disputed the fact that the concerned workman absented from duty unauthorisedly or without intimation to the management and asserted that the management was bound to accept the medical certificate produced by him.

6. At the instance of the management the propriety and fairness of the domestic enquiry was considered as preliminary issue. The management examined Shri R. P. Mazumdar, Enquiry Officer and laid in evidence the entire domestic enquiry proceedings including the chargesheet which were marked Exts. M-1 to M-19.

Upon consideration on materials on record, it was held that the domestic enquiry was held fairly and properly. Thereafter the case was heard on merits.

7. Shri B. Joshi, learned Advocate appearing for the management, has contended that the concerned workman absented from duty unauthorisedly without intimation to the management or without sufficient cause for a long time and hence he was justly dismissed from service after domestic enquiry.

Shri D. Mukherjee, authorised representative of the union, has contended that the concerned workman is a poor illiterate workman and that he became sick and could not attend his duty. He has further contended that although a medical

certificate issued by a competent Doctor was produced in the domestic enquiry, the Enquiry Officer did not place any reliance on the certificate and held him guilty unfairly and improperly.

8. Admittedly, Ghasi Ram Munda, the concerned workman, was working as Wagon Loader in Junkundar Opencast Project. It has been asserted by the sponsoring union that he was a permanent Wagon Loader of the Junkundar Opencast Project. This statement of fact has not been denied by the management. Thus, the conclusion is reached that the concerned workman was working as permanent Wagon Loader in Junkundar Opencast Project of M/s. B.C.C. Ltd.

9. It appears that the concerned workman absented from duty from 11-2-84 to 3-5-85 for which a chargesheet was issued against him (Ext. M-1). The case of the management is that it was revealed on enquiry from the Medical Officer that he reported about his sickness and was referred to Kalla Hospital for his examination and treatment on 2-6-84. The slip of the Medical Officer (Ext. M-18) establishes this fact. Thus, it is seen that the concerned workman started absenting from duty from 11-2-84 because of his sickness and he was referred to Kalla Hospital for treatment by the Medical Officer of the Project on 2-6-84.

10. It is the further case of the management that he did not report for duty after 2-6-84 and remained absent from duty and another chargesheet dated 24-7-85 was issued to him calling explanation from him for unauthorised absence from duty. The chargesheet dated 24-7-85 (Ext. M-3) indicates that the concerned workman absented himself from duty without intimation and without authorised leave from 15-9-84 till the date of issuance of chargesheet dated 24-7-85 and consequently he was charged under Clause 17(i)(d)(n) of the Model Standing Orders application to Industrial Establishment in Coal Mines.

Clause 17(i)(d) envisages that habitual late attendance and habitual absence without leave or without sufficient cause is a misconduct under Model Standing Orders for Industrial Establishment in Coal Mines. Clause 17(i)(n) envisages continuous absence without permission and without satisfactory cause for more than ten days is a misconduct.

11. There is no evidence on record to indicate that the concerned workman committed any misconduct by habitual late attendance and habitual absence without leave or without sufficient cause. Indeed, he absented from duty from 11-2-84 to 3-5-85. But the management has admitted that he reported sick to the Medical Officer of the Project and was referred to Kalla Hospital for examination and treatment. Then again, a chargesheet on the self-same charges was issued to him on 24-7-85. Both the two witnesses for the management have stated that the concerned workman absented from duty from 15-9-84 unauthorisedly and without any intimation about his sickness. Shri J. S. Gunna has stated that the concerned workman submitted two applications dated 6-9-85 and 1-8-86 intimating his sickness for unauthorised treatment from outside B.C.C.L. Hospital and dispensary. The concerned workman has stated in his testimony that as advised, he attended Kalla Hospital, was cured to some extent, but when he became seriously ill he consulted a doctor and submitted in the domestic enquiry a medical certificate issued by the Doctor, Sri Chandeswar Prasad, B.Sc., M.B.R.S., Civil Asstt. Surgeon, Medical Officer Incharge, Nirsu Primary Health Centre dated 16-10-84 certifying that the concerned workman was under his treatment since 2-6-84 and that he was found cured and fit to resume his normal duty. The Enquiry Officer has stated that the medical certificate was doubtful since it was issued by a doctor from outside. But this certificate was issued by the Doctor of a Govt. Primary Health Centre and in my view, there is no reason to hold that it is doubtful. The concerned workman submitted two applications as per the evidence of Shri Gunna one on 6-9-85 and another on 1-8-86 intimating about his sickness. The sponsoring union has stated in its pleading that the concerned is a poor and illiterate workman. This statement of fact has not been denied by the management. In the circumstances, I am of the opinion that the same level sophistication and knowledgeableness is not expected of an illiterate workman as is expected of an literate and sophisticated person. Considering the fact that the concerned workman submitted a medical certificate

in support of his illness from the doctor of a Govt. Primary Health Centre and also of the fact that he reported about his sickness by two applications dated 6-9-85 and 1-8-86, I hold that the reported about his illness to the management supported by medical certificate. Hence, I come to the conclusion that he is not guilty of the charge of misconduct for continuous absence without permission and without satisfactory cause for more than ten days. It follows that the order of dismissal of the concerned workman from service should be set aside and he should be reinstated in service with full back wages from the date of his dismissal from service.

12. It appears from the evidence that the concerned workman was absent from duty from 11-2-1984 till 14-1-1987 and that he had no leave due on his account. In the circumstances this period of his absence from duty shall be treated as leave without pay.

13. Accordingly, the following award is rendered the action of the management of Junkundar Opencast Project, Chanch Victoria Area, No. XII of B.C.C.L. in dismissing Ghasi Ram Munda, Wagon Loader, from service is not justified. The order of his dismissal from service with effect from 15-1-87 is hereby set aside and the management is directed to re-instate him in service with effect from that date with full back wages, continuity of service and other benefits. His period of absence from duty from 11-2-84 till 14-1-87 shall be treated as leave without pay. The concerned workman is directed to report for duty within one month from the date of publication of the award.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer
(No. I-20012/130/85-D.IIIA) 'D.IV (A)'

नई दिल्ली, 8 जनवरी, 1992

का.आ. 288.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार सेमर्स बी.सी.सी. एल. की गोर मैग्नेटिटी प्रोजेक्ट के प्रबन्धन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अन्तुषय से निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (स. 2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

New Delhi, the 8th January, 1992

S.O. 288.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Gore Magnetite Project of M/s. BCCL and their workmen which was received by the Central Government on the 1-1-1992.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 204 of 1987

PARTIES:

Employers in relation to the management of Gore Magnetite Project of M/s. B.C.C.L. and their workmen.

APPEARANCES:

On behalf of the workmen: Shri S. Bose, Secretary, R.C.M.S.

On behalf of the employers: Shri R. S. Murthy, Advocate.

STATE—Bihar. INDUSTRY: Magnetite.
Dhanbad, the 24th December, 1991

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(1977)/86-D.IV(B), dated, the 6th July, 1987.

SCHEDULE

"Whether the action of the Management of M/s. Gore Magnetite Project of M/s. B.C.C. Ltd. in striking off the name of Sri Rajak Mian from the Roll without holding an enquiry is justified? If not, to what relief the workman is entitled?"

2. Shri Rajak Mian the concerned workman was an employee in Gore Magnetite Project, Daltongaunge with effect from 17-5-76 as piece-rated worker and he worked there till 17-7-1979 and thereafter the present industrial dispute cropped up.

3. The concerned workman has filed the statement of his claims stating inter alia that on 17-5-79 he applied for leave of absence on the ground that he was to prepare for examination at Raanchi. He was also taken ill on account of infection of pox to which he intimated the management and prayed for leave of absence till his recovery but the management did not sanction the leave nor rejected his petition.

4. The management alleged that absence without any leave or without permission from the competent authority amounted to an act of misconduct. Accordingly he was issued with chargesheet but no departmental enquiry was conducted. Without enquiry the management struck off the name of the concerned workman from the register of the Project which was quite illegal arbitrary and act of unfair labour practice. It is stated that the action of the management in striking off the name of the concerned workman from the roll of Gore Magnetite Project was not justified and accordingly he has prayed for reinstatement with full back wages.

5. The employer has filed W.S. and by way of preliminary objection it was stated that the reference is bad in law and not maintainable. It was further stated that the purported dispute was overstate and hence the concerned workman was not entitled for any relief.

6. Admittedly, the concerned workman was employed as piece-rated worker with effect from 17-5-76. The management says that he was a purely casual worker. In the beginning the project belonged to the Steel Authority of India and was under the management of BCCL. Subsequently the ownership was transferred to BCCL and the Project was transferred to CCL by BCCL. It was submitted on behalf of the management that no W.S. has been filed by CCL and on that score reference order is vitiated as the project did not belong to BCCL on the date of reference order i.e. on 6-7-87.

7. The management further submitted that the concerned workman being a casual worker was not entitled to employment everyday nor he had right to claim such entitlement everyday. It was for the management to provide work to him subject to its availability. The concerned workman left the project towards the middle of July, 1979 without any information to the management and the management also did not know his whereabouts. It was for the first time in January, 1986 when the sponsoring union raised the purported dispute before the ALC(C) Ranchi and then the management came to know about the dispute. According to the management it was a clear case of abandonment of employment by the workman himself and in the circumstances the concerned workman terminated his own service himself. It was contended that the concerned workman lost interest in the job and left the same at his own accord. Apparently he took up some employment elsewhere and therefore he is entitled to no relief/claim nor it was incumbent on the part of the management to hold any domestic enquiry. Thus it has been prayed that the claim of the concerned workman and the prayer of the union be rejected and the reference be answered in favour of the management.

8. As per terms of reference the Tribunal has to decide whether the action of the management in striking off the name of the concerned workman Shri Rajak Mian from the

roll of the company without holding domestic enquiry was justified.

9. The management by way of preliminary legal objected asserted that the reference was bad in law and not maintainable for it was misconceived and contrary to the factual position. Shri S. Bose learned counsel speaking for the workman relied upon a decision published in SCLJ Vol. 4 at page 2307 and submitted that the Tribunal must confine its adjudication to the points of dispute referred and matter incidental thereto. In other words the Tribunal is not free to enlarge the dispute referred to it but must confine its attention to the points specifically mentioned and anything which is incidental thereto. In view of the authority cited above the Tribunal cannot go beyond the basic foundation of the reference. Admittedly in the instant case there was no domestic enquiry. It is also admitted that presently the concerned workman is not in the service of the management. In this regard the management has to say that the concerned workman was a purely casual piece-rated worker who left the project by middle of July, 1979 without any information and he did not turn up again in any work. It was urged that since he was a casual worker his staying away from work will amount to abandonment of the employment and in the circumstances no domestic enquiry was needed. Reliance was placed upon a judgement published in 1979-1-LLJ—Supreme Court page 275 wherein their Lordships were pleased to hold as follows:—

"In the absence of the statutory definition of "abandonment of service" one has to depend on the dictionary meaning. From the meanings given it clearly follows that to constitute abandonment, there must be total or complete giving up of duties so as to indicate an intention not to resume the same.

Abandonment or relinquishment of service is always a question of intention and normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf. Thus, whether there has been a voluntary abandonment of service or not is a question of fact which has to be determined in the light of the surrounding circumstances of each case."

10. I am to state that in the instant case there is no adequate evidence to suggest that the concerned workman actually left the work willingly for ever. According to him he had proceeded on casual leave on account of his ailment and that he had filed one application for leave. However, filing of any such leave application has been denied by the management. In this connection we may refer to Ext. W-7 which is the photo copy of the leave application dated 15-7-79. The contents of the application shows that he was suffering from small pox and so he applied for leave till complete recovery. The application was also received by somebody on behalf of the management and as such prima facie there can be no reason to disbelieve the document. I have no reason also to say that it was a fabricated document. The concerned workman (WW-1) has stated on oath that he had applied for leave. The learned counsel for the management is perfectly justified in his submission that the concerned workman did not specify the days or the period for which he wanted leave of absence. It was urged that since the application was faulty the management was not obliged to give any weightage to such application if any. Suddenly the workman ought to have specified the number of days but the question is that here we are not to judge the faulty nature of the application rather the crucial point for consideration in the light of the authority cited above is whether the concerned workman abandoned his services or not. Supposing for the sake of argument that the application was faulty still it was on the part of the management to reject the petition and to communicate the concerned workman accordingly. I would like to add further that since 1981 till this day the concerned workman has been requesting the management for his employment through the Secretary of his Union Shri G. D. Pandey. Ext. W-9 to W-12 are the letters of request written by Shri Pandey to the General Manager/Chief Personnel Manager, BCCL for employment of Shri Rajak Mian.

11. Ext. W-1 is the photo copy of the certificate of competency examined under Coal Mines Regulation, 1957/Metaliferous Mines Regulation, 1961. The concerned workman stated that he had gone to Ranchi to appear in the examination. This certificate shows that Shri Rajak Mian worked in the above mine continuously for more than 2-1/2 years and obtained practical experience and worked with all efficiency. Ext. W-2 is the Blasters Certificate of competency granted by the Chairman, Board of Mining Examination. This certificate shows that Shri Rajak Mian had appeared in the examination on 29-7-1979 and obtained the Blasters certificate. Ext. W-8 is the photo copy of the application dated 26-1-82 by the concerned workman and addressed to the Superintendent, Mines Magnetite Project, BCCL Daltongange requesting for employment as Blaster. The contents of the application will disclose that the concerned workman had to appear in the competency examination and so he had left for Ranchi on 17-7-1979.

12. The concerned workman had raised industrial dispute before the ALC(C), Ranchi which ultimately ended in failure. Ext. W-3, W-4 and W-5 are the correspondence entered into in the year 1986 between the management and the ALC(C), in connection with the conciliation proceeding. Again Ext. W-13 is the letter dated 17-3-1986 written by Shri G. D. Pandey and was addressed to the ALC(C), Dhanbad regarding employment of Shri Rajak Mian. These documents really show that the concerned workman has, since after 1979, been endeavouring and making earnest request for his employment and this is suggestive of the fact that he did not abandon nor he ever intended to abandon the services. The witness MW-1 stated that he had seen the concerned workman working in Rungta Mine after his absence from Gore Magnetite Project but we have no other evidence to support this fact on the other hand Shri Rajak Mian stated that since the stoppage of his work he has not been able to secure any permanent job anywhere.

13. By way of preliminary objection the learned counsel for the management while placing reliance upon the authority reported in SCLJ-1-104 and SCLJ-4-228 has submitted that overstate disputes are liable to be rejected. In the case reported in SCLJ-4-2228 (Shalimar Works Ltd.-vrs.- their workmen), their Lordship were pleased to observe that it is true that there is no limitation prescribed for reference of disputes to an Industrial Tribunal; even so it is only reasonable that disputes should be referred as soon as possible after they have arisen and after conciliation proceedings have failed, particularly so when disputes relate discharge of workmen wholesale. In the instant case there is no question of wholesale discharge of about 250 old workmen as referred to in the authority. Here is a solitary case of Rajak Mian who as stated above has all along been entreating the management for employment. It has also been stated that the conciliation proceeding was taken up in the year 1986 which failed and the reference was made in the year 1987. Even in another authority as referred to above their Lordships was pleased to hold as follows :—

“No doubt law of limitation which might bar in Civil Court from giving remedy in respect of lawful right should not be applied by the Industrial Tribunal but overstate claim should not generally be encouraged or allowed unless there is satisfactory explanation for the delay.”

For the reasons stated above I am to say that in the present case there is no question of overstate claim.

14. On the basis of the discussion made above it can be said that it was not a case of abandonment and as such it was demanded on the part of the management to hold domestic enquiry and then to take legal action but since no domestic enquiry was held the concerned workman under the law is entitled for reinstatement. The management has filed certain documents as Ext. M-1 to M-6 just to show that working of Gore Magnetite Mine was to be closed. All these are letters of correspondence regarding closure of the mine but these documents do not show that the mine has already been permanently closed down.

15. For the reasons stated above the award is answered in favour of the concerned workman Rajak Mian and he is

entitled to be reinstated in his service with full back wages. The management is therefore directed to reinstate the concerned workman in his original job with payment of full back wages from 18-7-79 within one month from the date of publication of the Award.

B. RAM, Presiding Officer

[No. L-24012(197)/86-D.IV(B)/IR(Coal-I)]

का.आ. 289.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार म. वं. सं. सं. एल. की बैरा कॉलियरी के बस्ता कोला क्षेत्र सं. 9 के प्रबन्धतंत्र में सबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकांश, (सं.-2) धनबाद के पचाड को प्रकाशित करती है, जो केन्द्रीय सरकार की 1-1-92 को प्राप्त हुआ था।

S.O. 289.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bera Colliery of Bastacolla Area No. IX of BCCL and their workmen which was received by the Central Government on the 1-1-92.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 252 of 1986

PARTIES:

Employers in relation to the management of Bera Colliery of Bastacolla Area No. IX of Bharat Coking Coal Limited and their workman.

APPEARANCES:

On behalf of the workman—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal

Dated, Dhanbad, the 24th December, 1991

AWARD

The Govt., of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-24012/15/86-D.IV(B), dated, the 15th July, 1986.

SCHEDULE

“Whether the action of the management of Bera Colliery of Bastacolla Area No. IX of M/S. BCCL, P.O. Dhansar, Distt. Dhanbad in dismissing S/Sh. Bejoy Mallik Tyndal Mazdoor and Hari Mallik Timber Mistry from service is justified? If not, to what relief the workman are entitled ?

2. In this case both the parties appeared before me and filed their respective W.S. documents etc. Thereafter the case proceeded along its course. Subsequently at the stage of oral evidence both the parties appeared and filed a Memorandum of settlement. I heard both the parties on the said memorandum of settlement and I do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the said memorandum of settlement and pass an Award in terms thereof which forms part of the Award as Annexure.

B. RAM, Presiding Officer

[No. L-24012/5/86-D.IV(B)/IR(Coal-I)]

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2 DHANBAD
In the matter of Reference No. 252/86

PARTIES:

Employers in relation to the Management of Bastacolla
Area of Bharat Coking Coal Ltd., Vikash Bhawan,
P.O. Jharin, Distt. Dhanbad.

AND

Their workmen

JOINT COMPROMISE PETITION

The above mentioned Employers and workmen most respectfully beg to submit as follows :—

- (1) That the matter covered by the above Reference, was mutually settled between the parties on 3-2-1987 as per the memo of settlement dated 3-2-87, a copy of which is annexed hereto.
- (2) That the aforesaid settlement dated 3-2-87 has been implemented by the Management.
- (3) That in view of the above, the aforesaid Dispute referred to this Hon'ble Tribunal stands fully resolved.

In view of the above, both the parties most respectfully pray that the Hon'ble Tribunal may be pleased to give an Award to the effect that the Dispute in question has been mutually settled between the parties as per the settlement dated 3-2-87. And that it stands fully resolved.

And for this both the parties, as in duty bound, shall ever pray.

(D. Mukherjee)
Secretary, BCKU.
8-12-91

Dhanbad,

Date : 9-12-1991,
RAL. S. Murthy, Advocate,
for Employers.

BHARAT COKING COAL LIMITED
(A Subsidiary of CIL)

Office of the General Manager, Bastacolla Area
Recd. No. BCC : IX : 6-B : 87:

Dated : 3-2-1987

Ref. Case No. 252/86

Memorandum of Settlement as per decision of the
record notes of Discussion dated 16-12-86 held at
Director (Personnel) Level at Koyla Bhawan.

Management representatives	Workers representatives
1. Shri H. S. Dhillon, General Manager	1. Shri S. K. Bakshi, Gen. Secy.
2. Shri R. L. Gupta, AM(T)-I	2. Shri A. M. Paul, President Bera Branch.
3. Shri B. P. Yadav, Personnel Manager.	3. Shri Hari Mallik
	4. Shri Bijoy Mallick.

SHORT RECITAL OF CASE

Shri Hari Mallik, Timber Mazdoor and Shri Bijoy Mallick Tyndel Bera Colliery were chargesheeted for remaining absent from duty in an unauthorised manner and without permission for the period from 1-8-83 to 26-9-83 i.e. 55 days and 8-11-82 to 13-12-82 i.e. 35 days respectively. The enquiry proceeding proceeded ex parte as they could not participate due to their detention in Jail On-duty and ultimately their services were terminated with effect from 8/9-4-85.

An I.D. was raised before A.L.C(C) for conciliation where it ended in failure. Central Govt. referred this case to Tribunal No. II for adjudication.
Terms of reference (The scheduled)

"Whether the action of the Management of Bera Colliery of Bastacolla Area IX of M/s. BCCL, P.O. Dhansar, Dist. Dhanbad in dismissing S/Shri Bijoy Mallik Tyndel Mazdoor and Hari Mallik Timber Mistry from service is justified? If not, to what relief the workmen are entitled ?

Terms of Settlement

1. It is mutually agreed to take Shri Hari Mallik & Shri Bijoy Mallik in employment in this original designation and category with immediate effect.

2. They will be given the continuity of service without any back wages.

Management representatives

1. Shri H. S. Dhillon, General Manager.
2. Shri R. L. Gupta, AM(T)-I
3. Shri B. P. Yadav, P.M.

Witnesses :

Dated:

Workers representatives

1. Shri S. K. Bakshi, Gen. Secretary.
2. Shri A. M. Paul, President, Bera Branch
3. Shri Hari Mallick
4. Shri Bijoy Mallick.

का. आ. 290—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सेंट्रल माईन प्लानिंग एंड डिजाइन इंस्टीट्यूट लि. के प्रबन्धन में संयुक्त नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिग्रहण, (स.-2), अनुवाद के पञ्चाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 290.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Mine Planning & Design Institute Ltd and their workmen which was received by the Central Government on the 1-1-92.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT DHANBAD

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 36 of 1991

PARTIES:

Employers in relation to the management of O.M.P.D.I.
Ranchi and their workmen.

APPEARANCES :

On behalf of the workmen—Shri Abraham Mathews,
General Secretary, National Coal Workers Congress.

On behalf of the employers—Shri B. K. Singh, Dy. Chief
Personnel Officer.

STATE : Bihar.

INDUSTRY : Mine Planning

Dated, Dhanbad the 24th December, 1991

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the

I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(246)/90-I.R. (Coal-I), dated, the 20th February, 1991.

SCHEDULE

"Whether the action of Central Mine Planning and Design Institute Limited management engaging/employing S/Shri Ranjit Kumar Minz, Shankar Ram, Md. Irshad, Bhuneshwar Bhagat, Krishan Kumar Ranjan, Anwar Hussain, Baha Oraon, Binod Bandhu, Dinesh Kumar, Subodh Bauri, Sushil Kajur, Jatru Oraon, Manoj Oraon, Barnabas Toppo, Balwant Prasad Suresh Oraon, Suka Oraon, and Bandhan Oraon through a contractor on the permanent and perannial job of sweeping and cleaning etc. and not regularising them as regular sweepers in Category-I and not paying them prescribed wages and allowances for sweepers in justified? If not, to what relief these workmen are entitled and from which date?"

2. In this case only the workmen filed their W.S. Subsequently when the case was fixed for filing W.S. by the management, both the parties appeared before me and filed a Memorandum of settlement under their signature. I heard both the parties on the said petition of compromise and do find that the terms contained therein are fair and proper. Accordingly I accept the said memorandum of settlement and pass an Award in terms thereof which forms part of the Award as Annexure A.

B. RAM, Presiding Officer.

[No. L-20012/246/90-I(Coal-I)]

K. J. DYVA PRASAD, Desk Officer

ANNEXURE 'A'

MEMORANDUM OF SETTLEMENT BETWEEN THE MANAGEMENT OF CENTRAL MINE PLANNING AND DESIGN INSTITUTE LTD. GONDWANA PLACE, KANKE ROAD, RANCHI-834008 & THEIR WORKMEN, REPRESENTED BY THE NATIONAL COAL WORKERS CONGRESS, GONDWANA PLACE, KANKE ROAD, RANCHI-834008 DURING NEGOTIATIONS AT 10-00 A.M. ON 7-10-1991 AT CMPDI, RANCHI

PARTIES :

Representing Management	Representing Workmen/Union
1. Sri B. K. Singh Dy. Chief Personnel Manager, Central Mine Planning & Design Institute Ltd., Ranchi.	1. Sri Abraham Mathews, General Secretary. National Coal Workers Congress, Gondwana Place, Kanke Road, Ranchi.
2. Sri A. K. Verma, Dy. Personnel Manager, Central Mine Planning & Design Institute Ltd., Ranchi.	2. Sri K. N. Singh, Asstt. General Secretary N.C.W.C., Gondwana, Place, Kanke Road, Ranchi.

SHORT RECITAL OF THE CASE

The General Secretary, National Coal Workers Congress, Ranchi, raised an Industrial Dispute before the Asstt. Labour Commissioner (Central), Ranchi in terms of their letter dated 21-8-1989, demanding regularisation of the 18 workmen listed therein, employed through contractor as sweepers in Category-I, National Coal Wage Agreement with all attendant benefits, status and privileges of sweepers on the direct Roll of C.M.P.D.I. Ltd./CIL, mainly on the ground that Contract Labour on Sweeping and Cleaning jobs being prohibited category.

The Conciliation having ended in failure, the Asstt. Labour Commissioner (Central), Ranchi, having submitted his failure of Conciliation Report on 20-7-1990, the Central Government

in the Ministry of Labour, New Delhi, in terms of their Reference Order No. 1-20012(246)/90-IR(Coal-I) dated 20-2-91 referred the Dispute to the Central Government Industrial Tribunal No. 2, at Dhanbad Registered as Reference No. 36 of 1991 for adjudication and the same is still pending.

The parties, on the request of the Union/Workmen entered into mutual negotiations and finally during discussion on mutually agreed to settle the dispute as per terms and conditions set out here-under and to seek an Award accordingly from the Hon'ble Tribunal No. 2.

TERMS OF SETTLEMENT

1. It is hereby agreed by the Management that the workmen listed here-under at Clause 2, who were petitioners in Writ Petition C.W.J.C. No. 1004 of 1990 (R) before the Hon'ble High Court of Judicature at Patna, Ranchi Bench, will be fitted in Category-I Casual Sweeper, National Coal Wage Agreement (NCWA)-IV on and from 1st April 1991 and will be paid Basic Wages, Allowances, benefits and facilities applicable under N.C.W.A.-IV in Category-I. On completion of 240 days of attendance W.e.f. 1-4-1991, they will be regularised in Cat-I w.e.f. 1-4-1991 and they will be entitled to all the attendant benefits and facilities, viz., Fixed D.A., Variable D.A., Special D.A., Attendance Bonus, Transport subsidy, House Rent Allowance, Casual Leave, Annual Leave Medical Leave and Medical treatment and reimbursement LTC/LLTC, Laveries and all other benefits and facilities as are normally applicable to workmen in Category-I under NCWA.

2. It is further agreed by the Management that the following workmen will be fitted in Cat-I NCWA-IV w.e.f. 1-4-91 :

Sl. No.	Name
	S/Shri
1.	Krishna Kr. Ranjan
2.	Md. Irshad
3.	Binod Bandu
4.	Muneshwar Bhagat
5.	Anwar Hussain
6.	Sukha Oraon
7.	Shankar Ram
8.	Ranji Minz
9.	Bandana Oraon
10.	Sushil Kujur
11.	Jatru Oraon
12.	Balwant Prasad
13.	Suresh Kujur
14.	Dinesh Kr. Ram
15.	Baha Oraon
16.	Ashok Paswan
17.	Krishna Sahu

All being petitioners in Writ Petition C.W.J.C. No. 1004 of 1990(R) before the Hon'ble High Court of Judicature at Patna Ranchi Bench.

3. It is agreed by the Union that they will drop the cases of S/Shri Manoj Oraon & Barnabas Toppo, who are not working and who are reportedly employed elsewhere and Subodh Bauri in absence of any information about his whereabouts over since the raising of the dispute.

4. It is further agreed by Management and Union that save and except the workmen listed at Clause 2 above, the claim of no other person concerning the ongoing contract for sweeping and cleaning jobs at CMPDI Hqr. whether as sweeper or otherwise will be made by the Union, nor will be considered by Management for regularisation/appointment.

5. It is agreed by the Union/workmen that the workmen listed at Clause 2 above, on being regularised as Sweeper in Cat-I w.e.f. 1-4-91 will continue to carry on their present normal duties as hitherto, including sweeping and cleaning of floors of buildings, ceilings, walls, Toilets and bathrooms, surroundings and surface drains to keep them in clean order and removing waste into which each of the said workmen

will give written undertaking. However, this undertaking will not in any way take away their right to apply for higher posts or from being considered for such posts, subject to fulfilling minimum qualifications, standard and other conditions prescribed to such posts, as and when such vacancies arise.

6. It is agreed by management that individual service book with specific entry of Clause 2 above and other personal bio-data will be completed on or before 30-9-1991 and will be intimated to the Union on or before 30-10-1991.

7. It is agreed that the arrear wages arising out of Fitment as at Clause 1 above w.e.f. 1-4-91 to the period ending on 30-8-91 under Category-I and the total wages due for the period prior to 1-4-1991 at Minimum wage rate of Rs. 24.50 (Rupees twenty four and fifty paise) per day under the Minimum Wages Act will be paid in full, after making the required deductions towards C.M.P.F. Voluntary Welfare Fund and Apaath Kalin Sahayatha Kosh, on or before 14th October, 1991.

8. Agreed by Management that the Implementation orders on this settlement will be issued on or before 14th October, 1991 with copy to the individual workmen concerned and to the General Secretary, National Coal Workers Congress simultaneously.

9. Agreed by Parties that this is in full and final settlement of all claims arising out of the Dispute and reference Order No. L-20012(246)/90-IR(Coal-I) dated 20-2-1991 being Reference No. 36 of 1991 and neither the Union, nor the workman concerned will make any further claims over and above the terms of this settlement.

10. Agreed by the Management and Union that this settlement will be submitted before the Hon'ble Central Government Industrial Tribunal No. 2, at Dhanbad under a joint application by the parties praying an Award in terms of this settlement. The joint application will be submitted on or before 30th October 1991 before the Central Govt. Industrial Tribunal No. 2, Dhanbad.

Signed on this the 1991.

On behalf of Management

1. (B. K. SINGH)
Dy. Chief Personnel Manager,
Central Mine Planning &
Design Institute Ltd.,
Ranchi.
2. (A. K. VERMA)
Dy. Personnel Manager,
Central Mine Planning
and Design Institute Ltd.,
Ranchi.

On behalf of the Workmen/Union

1. (ABRAHAM MATHEWS)
General Secretary,
National Coal Workers
Congress, Ranchi.
2. (K. N. SINGH)
Asstt. General Secretary,
National Coal Workers
Congress, Ranchi.

Witness

1. (S. N. PATHAK)
Asstt. Labour Commissioner (Central), Ranchi.
2. (M. B. SOREN)
Dy. Chief Engineer
Town Admn. Deptt.
CMPDI, Ranchi.

नई दिल्ली, 31 दिसम्बर, 1991

का.आ. 291.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भिलाई स्टील प्लांट के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-12-91 को प्राप्त हुआ था।

New Delhi, the 31st December, 1991

S.O. 291.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bhilai Steel Plant and their workmen, which was received by the Central Government on 30-12-91.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)
CASE No. CGIT/LC(R)(74)/1986

PARTIES :

Employers in relation to the management of Bhilai Steel Plant Bhilai, District Durg (M.P.) and their workman Shri I. G. Desai, P. No. 074144 C/o Shri P.K. Sengupta, President, Khadan Mazdoor Congress, C/o Labour Court, Laxmibai Path, P.O. & District Durg (M.P.).

APPEARANCES :

For Workman.—Shri P. S. Nair, Advocate.

For Management.—Shri D. C. Henri

INDUSTRY : Steel Plant DISTRICT : Durg (MP)

AWARD

Dated, the 20th December, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-26012/10/85-D. III(B) dated 1st September, 1986, for adjudication of the following dispute :—

SCHEDULE

“Whether the action of the management of Bhilai Steel Plant in removing Shri I. G. Desai, P. No. 074144 from the services of Telephone Operator from Nandini Mines with effect from 10-10-1983 is justified? If not what relief the employee concerned is entitled to?”

2. My predecessor vide Order dated 18-7-88 held that the domestic enquiry is neither just nor proper and is vitiated and accordingly directed the parties to lead evidence in relation to misconduct of the workman concerned before this Tribunal. Issue No. 1 has been disposed of accordingly.

3. During the pendency of the proceedings it was brought to the notice of this Tribunal that the workman died on 9-11-1989 because his dead body was found by the Police on 9-11-89 near the Railway Line in between Mourya Talkies and Office of the S.A.D.A. in Bhilainagar Township, photo copy thereof has been filed. However, the L.Rs. of the deceased workman, viz. Smt. Hansa Desai and her sons were permitted to continue the proceedings vide order-sheet dated 30-4-91.

4. Now we confine ourselves to the remaining issues nos. 2 & 3. Issues are, however, as follows :—

ISSUES :

- (1) Whether the Enquiry is proper and legal?
- (2) If not, whether the action of the management is justified and legal on the facts of the case?
- (3) Whether the punishment awarded is just and proper?

FINDINGS WITH REASONS :

5. In order to decide these issues No. 2 & 3 we only confine to the relevant part of the pleading and shall not deal

with the remaining part of the pleading. Hence we straight-way come to the charge-sheet relating to which enquiry was held and the services of the deceased workman were terminated with effect from 10-10-1983. Charge is as follows :—

CHARGE

Shri I. G. Desai while employed as Telephone Operator, P. No. 074144 in the Telecommunication Deptt. Nandini Mines of Bhilai Steel Plant in the 'B' shift (2.00 PM to 10.00 PM) on 12-9-82 has been guilty of major misconduct in as much as he was caught at about 7.20 PM by the CISF Centry at the main gate, Nandini while unauthorisedly carrying away a 'Main pole coil of the traction motor of Czech, Loco' in unused condition on his bicycle through the main gate. This property (Main pole coil of the traction motor of Czech Loco) belong to Bhilai Steel Plant/Nandini Mines.

Shri I. G. Desai has, thus, committed an act of major misconduct under the Standing Orders for Mines.

6. Workman has denied the alleged charge.

7. The management has proved Ex. M/1, Ex. M/11 and Ex. M/15 as also the D.E. file. It has also examined five witnesses viz. R. S. Prasad (M.W. 1) Chain Singh Verma (M.W. 2), S.A. Chate (M.W. 3), S. K. Mukerji (M.W. 4) and Dasrath Singh (M.W. 5). The workman has, however, not examined any witness. It has only proved three documents viz. judgment of the Court, Shri Yogesh Mathur, Judicial Magistrate 1st Class, Durg dated 25th April, 1984 in Criminal Case No. 105/84, according to which the deceased delinquent workman was acquitted of the offence under Sec. 379 I.P.C. This document may be marked as Ex. W/1. Remaining two documents are certified copies of the statements of Chain Singh and Ishwar Lal (Ex. W/2 and Ex. W/3 respectively) which have been recorded by the Judicial Magistrate.

8. The charge is patently clear to show as to what happened on the alleged date of incident. Therefore we straight away come to appreciate the evidence on the point.

9. Before appreciating the evidence of the management on record and also the alleged contradictions in the evidence. I may point out that the workman in his written statement filed during the D.E. on 18-6-83 which in substance is that after return from duty he availed oral permission to Junior Manager, Shri A. K. Prasad, for ½ an hour to go to the market and purchase certain articles. He purchased rice, tomato, fulghobi and datoon and kept them on his cycle and returned to his duty. Since he was late he was coming fast.

10. Deceased workman has stated that—

"When I reached at the 1st culvert which is from the main Security Gate on the road leading to township, I saw somebodys coming from the Main Gate direction on a bicycle very fast. And I heard somebody shouting after him at a distance. By this time the man who came on bicycle fastly crossed me and something was fell on the ground from his bicycle. I stopped my bicycle and stood on the bicycle. Then I saw the shouting person, who was a Security Guard after the fleeing person; reached at the spot there where the material fell down. The Security Guard was found resperating very speedly. He stopped and asked me "Kya Desaijee" Yo Sale Bhaggya ?" The Guard's name was Babu Pawde. Shri Babu Pawde tried to lift the material by his both hands. The material was found weightful. Then Shri Babu Pawde told me "Desaijee isko under le Jane ke Liyae mujhae thoda Madath Keejiyae". Then I got down from the cycle. *Aafplace isco ottha Kae aapha saicle men rekhie hun. Then I kept my cycle on the stand and helped the guard by pulling up the carrier srring, the Security Guard Shri Babu Pawde lifted the material and placed on my bicycle. For that I removed my raincoat which kept on the carrier. After placing material on the carrier I placed my Rain-Coat on the material and then we both moved towards the Main Gate, we both were holding the cycle and Shri Babu Pawde was explaining all the distance to the Maingate from the said culvert that how the thief escaped. When we entered

inside the maingate, nobody was there at the Main-gate or in the surroundings of the Maingate. Then the time was 7.30 PM. I told Babu Pawde to remove his Material and give my cycle. Shri Babu Pawde who requested for my assistance and addressed me as "Bhaiya Bhaiya", increased his voice and started shouting. I was surprised because he refused to give my cycle on which the stolen material was placed by him by his own request."

Thereafter he narrated the story, which is as follows :—

"He immediately tried to twist the incident because I found somebody was coming towards the main-road from the front of the Welfare Building side. Babu Pawde called that person "Where are you going?". That was Shri Deserath Singh Sr. Security Guard, C.I.S.F. "I am going to the mess to take the meal" he replied. Babu Pawde did not allow me to go to the Telephone Exchange. As per the indications and hits, Deserath Singh also came to the spot where we were standing inside the main gate. They both began to threaten me very loudly as why I stole the material. I was threatened by the Security Guard as I would be beaten if I would not admit the theft. At that time Chain Singh Verma, Time Keeper, hearing the loud noise came out of the room (Time Office) and asked from the Yard "Kya Hae Desaijee" When I was about to reply, the electricity was tripped. People began to gather in front of the Time Office and from there to the main Gate. There where we were standing by hearing the shouting of the Security Guards within a few minute (5 minutes to 10 minutes) Shri Chate, A.S.I., C.I.S.F. came there. The Security Guards started comments to Shri Chate as I was the person who stolen the material placed on my cycle. Thereafter I do not remember what happened because I was not in normal condition as I was confirmed that I was caught by trap and at the same time the thief and the Security guard are escaped.

I am a Telephone Operator one among the Sr. Telephone Staff of Nandini Tele-communication and am almost victimised by the Nandini Tele-communication management of Nandini Mines. I am surplus and put to work in the vacant post of Mechanics for the last six yards (years).

When I was victimised repeatedly by my superiors and officiating was not given to me. I pointed out the same to my superiors. But no favourable action was taken by the Management. I have not committed any major misconduct as levelled in the Charge-sheet against me. This is a case fabricated by the CISF against me. Hence I submitted my statement here-with for your kind information and an impartial judgment."

11. It is true that Shri Babu Pawde has not been examined and vide proceedings dated 23-8-81 though the management sought time to produce him he was not produced and the case of the management was closed vide proceedings dated 30-9-91.

12. Shri R. S. Prasad who has been referred to in the statement of the delinquent has been examined as M.W. 1. He has not been put a question that the delinquent had sought his permission to leave for a short period.

13. Coming to the testimony of Shri Chain Singh, S. A. Chate and Dasrath Singh we find that it was the delinquent deceased workman who was carrying with articles and was caught with articles. I need not go into the details of the evidence. The delinquent deceased workman has not claim those articles to be his. The articles belong to the Bhilai Steel Plant. The instance as said to have taken place by the deceased delinquent workman is most unreliable because there was no reason to falsely implicate the deceased workman. Despite all the contradictions with the testimony of the evidence of the witnesses they are not so material so as to doubt their testimony and in the light of the statement of the deceased workman the case of the management must be accepted.

14. It is needless to say that the criminal case has a different measure of appreciation while the departmental proceeding is not so sticky about the proof beyond doubt. Here, however, the facts are proved and after removal of the workman from service vide order dated 10-10-1983 the workman was acquitted by the competent Court of law for the alleged misconduct (offence) relating to which the D.E. was held. The judgment of the criminal Court does not come in the way. No other conclusion can be drawn but believing the evidence adduced by the management, the offence being grave the action taken by the management is justifiable.

15. Reference is accordingly answered as under :—

The action of the management of Bhilai Steel Plant in removing Shri I. G. Desai, P. No. 074144 from the services of Telephone Operator from Nandini Mines with effect from 10-10-1983 is justified. He is not entitled to any relief. No order as to costs.

V. N. SHUKLA, Presiding Officer

[No. L-26012/10/85-D.III(B)]

नई दिल्ली, 1 जनवरी, 1992

का.भा. 292.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमरण में, केन्द्रीय सरकार, कलकत्ता पोर्ट ट्रस्ट, कलकत्ता के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-91 को प्राप्त हुआ था।

New Delhi, the 1st January, 1992.

S.O. 292.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Calcutta Port Trust, Calcutta and their workmen, which was received by the Central Government on 31-12-1991.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 60 of 1986

PARTIES :

Employers in relation to the management of Calcutta Port Trust,

AND

Their Workmen.

PRESENT :

Mr. Justice Manash Nath Roy, Presiding Officer.

APPEARANCES :

On Behalf of management—Mr. P. Roy, Deputy Labour Adviser and I.R.O. and Mr. G. Mukherjee, Personnel Officer.

On behalf of Workmen—Mr. P. C. Laha, Secretary of the Union.

STATE : West Bengal

INDUSTRY : Port

AWARD

The Calcutta Port Trust and its Board of Trustees (hereinafter referred to as the said Trust), has a number of departments including the "Traffic Department" and another department, known as "Secretary's Department".

2. In the said "Secretary's department", there is a section known as Port Security Organisation, which looks after security of the said Trust's properties within the Port area and 91 GI/92—10

for that, Security Guards are employed. Sri Goutam Ram, the employee involved in this case (hereinafter referred to as the said employee) was employed as a Security Guard and he has claimed to be member of National Union of Water-front Workers (hereinafter referred to as the said Union), which has raised the following dispute :—

"Whether the action of the management of Calcutta Port Trust, Calcutta in inflicting punishment on Shri Goutam Ram, Security Guard No. 185 by way of reducing his pay to the minimum of the pay scale of the post of security guard with effect from 14-6-1983 for a period of three years without cumulative effect is justified? If not, to what relief is Shri Goutam Ram, Security Guard No. 185 entitled?"

for adjudication before this Tribunal and the said reference was made vide Order No. L-32012/5/85-D IV(A) dated July, 31, 1986. The said Union appeared for the said employee before this Tribunal.

3. It has been stated that in the Traffic Department, there is a section known as "Superintendent's Transportation" (hereinafter referred to as the said Section), which controls and looks after the movement of Railway Traffic within the Port area and under them, there are many Railway yards, including one known as "EJC Yard". It has also been stated that for operational work, many employees are employed in that Yard, who are designated as Yard Porter, Shunter Gunner, Sub-Gunner and Coupling Porters amongst others, who are under the control and supervision of Junior Assistant Superintendent, Transportation EJC and in that Yards, there is also a Security post, known as "Advance Post."

4. It has been stated that on August 17, 1980, in the night shift, Security Guard, Sri Tek Bahadur Aley and the said employee were posted for duty in that "Advanced Post" as gunner and gun-helper respectively. It was the case of the said Union that at about 11 P.M. on August 17, 1980, the concerned Junior Assistant Superintendent Transportation, instructed his men to pull some wagons by Engine No. D/71, for the purpose of detaching some defective wagon through shunting and the Driver of that Engine was Md. Jail.

5. It has also been stated that in the course of such shunting, it was alleged to be detected that near the "Advanced Post" some miscreants were pilfering or had pilfered a wagon, which was third from the engine and the said employee, who was then functioning as gun helper was suspended and a departmental proceeding was initiated against him, on the basis of the charge sheet dated December, 27, 1980, on the following charges :—

Charge No. I

(That the said Shri Gautam Ram is charged with gross negligence of duty and misconduct unbecoming of a Security Guard under the vigilance and Security adviser, Port Security Organisation during the period 22.00 hrs. of 17-8-80 to 6.00 hrs. of 18-8-80 at E.J.C. Advance Post as a Gun-helper, wagon No. NRCRT-70940 was victimised by some miscreants in spite of his present at the spot during his said duty period and he failed to prevent victimisation of the said wagon. Subsequently the wagon was checked at Pyc Shed and 5 pkgs. were found short from the said wagon.

Charge No. II

"That during the aforesaid period and while functioning in the aforesaid office the said Gautam Ram committed misconduct inasmuch as he did not render any help to the C.P.T. Rly. shunting staff who were surrounded by some miscreants near Majerhat Advance Post while they were carrying on shunting operations of a rake of wagons."

6. It would appear that one Sri Bivekananda Sen Gupta, Inspector and one Sri Pronob Kumar Chakraborty, Field Section Inspector of the Port Security Office respectively, by two separate orders both passed on December 22, 1980 by the Secretary of the said Trust, were appointed as En-

quilty and Presenting Officers. In the enquiry, Sri Ganga Sagar Singh, Shunter Gunner, Sk. Jabir Sub-Gunner, Sri Tapan Kumar Chattopadhyaya, Junior Assistant Superintendent, Transportation, Sri Krishna Das Biswas, Inspector and Sri Satish Kumar Roy, Jamadar were examined as prosecution witnesses. It would also appear that the said employee deposed himself in the enquiry and he was assisted by Sarbassree Anil Mukherji and Provat Kumar Biswas of the said Union and they declined to examine any other defence witness besides the said employee and they including the Enquiry and Presenting Officers, jointly inspected the place of occurrence also.

7. It would appear that after the enquiry, the Enquiry Officer submitted his report on June 10, 1982, finding the said employee guilty in respect of Charge No. 1 and he exonerated him from Charge No. 2.

8. The report in question has been stated to be considered by the Secretary of the Disciplinary Authority and he agreed with the findings as arrived at and passed an order on January 20, 1983, to the effect that Show Cause Notice be issued to the said employee, proposing the punishment to reduce his pay to the minimum of pay scale attached to a Security Guard for a period of 3 years without cumulative effect. This order was communicated to the said employee by the Vigilance and Security Officer on February 28, 1983 along with the findings of the Enquiry Officer and thereafter, the said employee submitted his reply, which was considered by the Secretary and he, by his order dated June 14, 1983 observed that no point was made out by the said employee, which required consideration and, therefore, he passed an order for imposition of penalty and in the line as indicated earlier. This order was also communicated to the said employee on or about June 22, 1983. It would appear that on the relevant date, the said employee was drawing a basic pay of Rs. 406 in the pay scale of Rs. 330-8-390-E.B.-9-415-E.B.-10-475 and the said Trust has stated that as a consequence of the imposition of the penalty, the basic pay of the said employee was reduced to Rs. 330 in the scale of pay with effect from June 14, 1983 and as such, on June 14, 1986, the said employee was allowed the basic pay of Rs. 730 in the scale of pay of Rs. 515-11-620-13-695-15-775 and prior to that, he was also allowed to resume his duties with effect from January 22, 1988, on revocation of the order of suspension as passed earlier.

9. The said union has claimed the punishment as imposed to be unfair, bad, illegal, and against all principles of natural justice. On the other hand the said Trust has supported the punishment as imposed, claiming the same to be fair, legal and has said, that the same was imposed after the enquiry and following the necessary principles of natural justice. The said Trust has also alleged that the said employee has really accepted the punishment as imposed and has not exhausted the remedies available under the Rules since he has not preferred any appeal against the order of punishment. That being the position, it was claimed that there was no question or any occasion to review the order of punishment which was asked for on behalf of the said employee by the said Union, through Exhibits M-11 and M-13. The said Ext. M-13, it should be indicated, that the said Union claimed and considered to be treated and relied on as an appeal.

10. From the pleadings, it would appear that the said Union has given a vivid description of the place of occurrence through which the Railway tracks are lead and has disclosed the circumstances, for which the said employee could not be held guilty of the charges as levelled and during the course of argument, the learned representative of the said Union submitted that the entire thing was an attempt to make the said employee a scape goat, for no fault of his, and more particularly when, the other employee Sri Tek Bahadur Alev could not either be suspended or proceeded with, although similarly charged as he was not available and absconding. It was further alleged by the said Union that on the basis of the evidence as available either before the Disciplinary proceeding or before this Tribunal or from the records as produced and marked on consent, the complicity of the said employee in the occurrence, had not at all been established or proved. Those submissions were of course denied and disputed by the learned representative of the Trust. Apart from the documents as disclosed and marked on

consent, it would appear that Sri Bivekananda Sen Gupta, an Inspector of Calcutta Port Security Organisation, who conducted the enquiry, has deposed and apart from stating about the incident regarding the charge sheet, which according to him was proved through due legal evidence. It has stated that there was no violation of principles of natural justice, as at every stage, the said employee was given all, due and necessary opportunities to prove his case of innocence and also the fact that he and his defence helpers were asked to lead defence witness, if available, but they refused.

11. Before I take up the submissions as made before me, I should keep it on record and which fact the learned representatives of the parties, appearing before me agreed, that the said employee Goutam Ram was all through out present in the Tribunal during the entire proceedings, but he did not tender himself for examination and cross-examination. The learned representative of the said employee, on being asked; stated that said Union has not produced and tendered the said employee for examination and cross-examination, as it was thought that the same would not be necessary.

12. Mr. P. C. Laha, appearing for the said employee, first referred to the order of reference and after placing the facts, submitted that it would admittedly appear from the proceedings and evidence as recorded in the departmental proceedings, that the third wagon from the concerned engine was pilfered on August 17, 1980, at about 23.35 hrs. It was indicated by him that the said employee was deputed on duty for that night, to work as gun helper and not as gunman. He also pointed out that the gunman and the gun helpers are posted as security guards in the concerned area/yard and since it was found that the pilferage was done in the presence of the employee, the charge sheet as mentioned earlier, was issued against him, who as indicated earlier, was acting on that date as gun helper and he was suspended on September 27, 1980. He also pointed out that the gunman viz Tek Bahadur Alev was also sought to be charge sheeted and suspended, but such order could not be served on him, as he was absconding from duty on and from September 10, 1980.

13. Mr. Laha then pointed that on the basis of the departmental enquiry, which was not duly held and that too, after following all norms of principles of natural justice and the said employee was found guilty without any basis and he was ultimately sought to be punished with such reduction of pay by 3 stages as mentioned earlier. Admittedly, the employee was not punished on the basis of the findings of the Enquiry Officer that Charge No. 1 was duly and appropriately proved against him and it would also appear that he was acquitted of Charge No. 2.

14. Sri Laha referred to Annexure K and L of the written statement filed by the said Union, the respective dates whereof will appear from the said Annexure and which are the copies of the proceedings recorded in the departmental enquiry and stated, on consideration of such evidence as recorded, it would appear that there was no evidence of pilferage and the duty of the said employee was only as a gun helper, which fact, has also been admitted by the management and as such, it should be held that when the incident took place or occurred within the said yard, which was a vast one, it was really impossible to hold the said employee guilty, even in respect of the Charge No. 1, as on the date, the incident happened, there was massive load-shedding and in such circumstances, it was not possible for any one to recognise and identify of the miscreants or for not apprehending them, for which the said employee has been found to be guilty and more particularly when, on the basis of question Nos. 7, 8 and 9 and the answers to them, it would appear that the duty of the gun helper, i.e. said employee, was to help the shunter gunner holding the gun and it was his duty only to follow the gun-man, wherever he goes within his duty area and the gun helper could not act independently or of his own, move about, apart from the fact that the insufficiency of light on the date of occurrence, was established. It was then submitted by him that really the said employee has suffered much and that too, not for any of his deficient workings. He indicated that the said employee has really suffered from 1980 to 1986.

15. It was further submitted by Sri P. C. Laha that the proceedings were really manipulated and mala fide one

and that was only initiated with the intention to punish the said employee, since the original gunman i.e. Tek Bahadur Alely was not admittedly available.

16. It was further pointed out by him that as the Driver of the concerned engine and the gunman were not produced in the enquiry, the fact that the 3rd wagon from the engine was pilfered or manipulated, was not really proved by any independent and direct evidence. It was Sri Laha's further contention that even though the Driver of the concerned engine has retired, there was no difficulty in having him produced in the departmental enquiry, more particularly when, he made a statement as in Annexure 'G' to the written statement of the said Union. It was also contended by Sri Laha that even the contents of Annexure 'G', if considered duly, will not establish any complicity of the said employee in the incident as happened and according to him, the said Annexure 'G' was not considered unbiased and if the same was done, there would have been exoneration of the said employee from the concerned charge. It was further pointed out by Sri Laha that even though the Coupling porter, who detached the 3rd wagon from the 4th one, was neither examined nor any statement was taken from him and it is strange that he was not called at the enquiry, to prove the happenings and such being the position, there was no reasonable possibility, of either holding the said employee guilty of the charge or that there was really any victimisation of the concerned wagon. It was then submitted by him that when the Coupling Porter was not admittedly produced, the happenings were sought to be proved by some one, who had nothing to do in the matter. Sri Laha further referred to the cross-examination of Shri Jabir and stated on scanning the entire evidence, that it was really impossible to find out how the security guards were identified or how they could identify the miscreants.

16. Next, reference was made by Sri Laha, to the evidence of Sri K. D. Biswas and Sri P. K. Chattopadhyaya and submitted that neither of them have really testified that they could see or really saw the incident happening and so also the miscreants, whose identities were not duly proved and established. The said Sri Chattopadhyaya admittedly made a statement as in Annexure 'F' to the written statement of the said Union and on a reference to the same, it was claimed by Sri Laha that even therefrom, it would appear that the validity of the submission as made by him and recorded earlier, were not really denied. Considering the totality of the evidence, Sri Laha submitted that the case as sought to be made out and established against the said employee, was really false and a concocted one. The answers to question Nos. 7, 8 and 9 as mentioned earlier and the non examination of the Coupling Porter and that of the Driver and the gunman, would have certainly be in favour of the said employee, if their statements as indicated earlier, were not marked by consent and without any objection in this proceedings.

17. In his reply, Sri G. Mukherji, appearing for the said Trust indicated on a reference to exhibit M-4 that admittedly, the said employee was found guilty of the first charge and was exonerated of the second one and on August 17, 1980, he was deputed as gun helper.

18. While on the enquiry proceeding and on a reference to the records therein, so also the written statement of the said Union here, Sri Mukherji submitted firstly, that the said employee has not really denied or disputed the incident and secondly, there was also no denial to the fact that he alongwith Tek Bahadur Alely was placed/deputed on duty on the date of occurrence as gun helper and gunman respectively and as such, their duty was to protect the properties of the said Trust. He then pointed out that from the evidence of M-1, it would appear that after the happenings, the said Tek Bahadur Alely, gunman has fled away. It was pointed out fourthly, by Sri Mukherji that the said employees, was given all due and necessary help, assistance and opportunities in the disciplinary proceedings and really, he had also the advantage of having the help and assistance of defence helpers, who alongwith the said employee, participated in the enquiry without any protest. It was, fifthly pointed out by him that if the case of the said employee was true and correct, then, why he has not lead any defence witness in the enquiry? To establish such statement and the validity of the same, reference was

made to the records and proceedings of the enquiry and the statements as pointed out earlier and so also the evidence of MW-1 and further reference was also made by Sri Mukherji to Ext. M-6, which is Appendix-1 to the recorded proceedings of the departmental enquiry. While replying on the non-examination of Sri Jabir and the Coupling Porter, it was submitted by him that it is true that they were not called, as their evidence was not sought to be relevant on the basis of the available evidence and their statements which were not contradicted, and in any way, it was stated that if their evidence as claimed, was thought to be so relevant, then there was no bar for the said employee either to call them or he could have asked for their production in the departmental proceedings. In fact Sri Mukherjee claimed that there is evidence available on the point. It was stated by him further that Appendix-I to the written statement, which has been marked on consent, was a document created or the same came into existence, when evidence in the departmental proceeding was over and as such, the submissions made on that behalf by the said employee now, should be deemed to be an after-thought.

19. Sri Mukherji then pointed out that in the departmental enquiry, inspection of all documents either to the said employee or to his defence helpers was given and as such, there was no or could be any question of non-compliance with the principles of natural justice or insufficiency of opportunities. It was Sri Mukherji's further contention that the invalidity of those submissions of the said employee would be apparent, as MW-1 was not cross-examined by him before this Tribunal on such points. Sri Mukherji then submitted that the findings in the enquiry were arrived at, not only on consideration of the available evidence on record, but also on admitted facts, on the basis whereof, the said employee was found guilty and he also repeated that since all the documents before this Tribunal were produced on admission, there can not be any reason or cause for disbelieving them.

20. From the recorded proceedings, it was stated by Sri Mukherji that it would appear from Appendix-B that Ganga Sagar the sub-gunner was on duty and from Appendices C, E and G it would also appear that Jabir, T. K. Chattopadhyaya and Sri Biswas duly reported and Sri Biswas found victimisation of the concerned wagon. When the statement of Sri Tek Bahadur Alely was sought to be read and tendered by Sri Mukherji before this Tribunal, Sri P. C. Laha appearing for the said employee objected to such reference and agreeing with the submissions of the learned representative of the said Trust, I think the submissions of Sri P. C. Laha were not of any substance, as the said report of Tek Bahadur Alely was marked in this proceedings by consent of parties. From the evidence of MW-1, it will appear that he made a report, which was duly considered and thereafter, the said employee was found guilty of Charge No. I.

21. The fact that the said employee Goutam Ram was all throughout present before this Tribunal was also not in dispute as indicated earlier and such fact should certainly be considered as one against his contentions and while on the point, it should also be remembered that the said employee, even though had the due opportunities, had not produced any witness in support of his case, either in the Departmental proceedings or before this Tribunal.

22. Apart from the facts as above, there can not also be any denial of the fact that there was no appeal duly and at all preferred by the said employee against the order imposing penalty and the record which he intended to be used and considered as an appeal, was really not an appeal under the relevant Rules, governing his terms of service and condition of employment. Sri Mukherji appearing for the said Trust of course claimed that since the dispute was raised after 2/3 years, there was no validity of the same and the same can not also be considered. I do not of-course agree with such submissions of Sri Mukherji.

23. On the basis of the evidence as available and considering the submission, there is no dispute that load-shedding in the yard of the said Trust on that date, has not been duly established and proved and as such, submissions made on that ground, cannot be taken to have been proved and established.

24. In view of the above recordings as made by me, I find amongst others that non-examination of the said employee, was a vital defect in the proceedings before this Tribunal and in the departmental proceedings even though, he was afforded all due, necessary and required opportunities and as such, there was no violation of the principles of natural justice as alleged. In fact, the said employee, in the concerned Departmental proceeding have not been able to establish that there was no complicity on his behalf in the happenings, beyond any reasonable doubt.

25. Above being the position and my findings, I hold that the reference cannot be answered in favour of the said employee and the same is thus dismissed.

This is my Award.

Dated, Calcutta

The 17th December, 1991.

MANASH NATH ROY, Presiding Officer
[No. L-32012/5/85-D.IV (A)]

नई दिल्ली, 2 जनवरी, 1992

का.आ. 293.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. आदित्य मिनरल्स रयाला, भीलवाड़ा के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

New Delhi, the 2nd January, 1992

S.O. 293.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Aditya Minerals, Rayala, Bhilwara and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी.आई.टी. 36/90

केन्द्र सरकार अम संजालय की अधिसूचना संख्या :

एल. 29012/37/90 आई. आर. (विधि) उ. 24-5-90

बारबा पुत्र श्री ल्या मीना गोब और पोस्ट गारणा तहसील केकड़ी, अजमेर।

बनाम

मै. आदित्य मिनरल्स, रयाला, भीलवाड़ा।

उपस्थिति :

अधिक पक्ष की ओर से : कोई हाजिर नहीं

नियोजक पक्ष की ओर से : श्री मदन सिंह देवपुरा के ओर से
श्री बी.एस. माथुर।

दिनांक प्रवाई : 27-4-91

प्रवाई

श्री बी.एस. माथुर विपक्षी के प्रतिनिधि श्री मदनसिंह देवपुरा की ओर से उपस्थित हैं प्रार्थी की ओर से कोई हाजिर नहीं है आज श्री माथुर ने श्री देवपुरा की ओर से उपस्थिति बाबत प्रार्थना पत्र पेश की शामिल मिसल रहे आज प्रार्थी की स्टेटमेंट आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है और ना ही क्लेम पेश किया है। प्रार्थी को दिनांक 24-7-90 से निरन्तर क्लेम पेश करने के लिए अवसर दिया जा रहा है अब समय दिया जाना उचित नहीं है अतः इस प्रकरण में नो डिस्टूट प्रवाई पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

जगत सिंह, न्यायाधीश

[सं.एल. 29012/37/90-आई. आर. (विधि)]

का.आ. 294.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, श्री दौलतमल बंकलीवा, मालिक बंसखो सिलिका माईन्स मोहनवाड़ी, सूरजपोल गेट, जयपुर के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 294.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Shri Daulat Mal Bankliwal, Owner Bansakho Silica Mines Mohanwari Suraj Pal Gate, Jaur and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी.आई.टी. 32/91.

केन्द्रीय सरकार अम संजालय की अधिसूचना संख्या :
एल-29011/20/90 आईआर (विधि) वि. 24-4-91
जिला सचिव, खान बर्म युनियन, 3, हथरोई अजमेर,
रोड, जयपुर।

बनाम

श्री दौलतमल बंकलीवाल, मालिक बंसखो सिलिका माईन्स मोहनवाड़ी, सूरजपोल गेट, जयपुर।

उपस्थिति :

यूनियन की ओर से :

कोई हाजिर नहीं

नियोजक की ओर से :

कोई हाजिर नहीं।

दिनांक प्रवाई :

30-8-91

प्रवाई

फरीकेन की ओर से कोई हाजिर नहीं है। आज यूनियन को स्टेटमेंट आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है और न ही क्लेम पेश किया है। यूनियन को दिनांक 31-5-91 से क्लेम पेश करने के लिए निरन्तर समय दिया जा रहा है अब समय दिया जाना उचित नहीं है, अतः इस प्रकरण में नो डिस्टूट प्रवाई पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

जगत सिंह, न्यायाधीश,

[सं.एल. 29011/29/90-आई.आर. (विधि)]

का.आ. 295.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. आयल इण्डिया लि. जोधपुर के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 295.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Oil India Ltd., Jodhpur and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी.आई.टी. 67/90

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या : एल-30011/6/90आई.प्रार. (विविध) दि. 20-9-90 जनरल सैफुद्दीन, आयल इण्डिया प्रार.पी. फील्ड, केजुप्रल नेचुरल गैस कमीशन यूनियन, हुक्मे की चनकी के पास, जैसलमेर एवं अन्य।

बनाम

सै. आयल इण्डिया लि., जोधपुर।

उपस्थिति

यूनियन की ओर से : कोई हाजिर नहीं
नियोजक की ओर से : कोई हाजिर नहीं
दिनांक अर्वाइ : 9-4-91

अर्वाइ

फरीकेन की ओर से कोई हाजिर नहीं है। आज यूनियन को स्टेटमेंट आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है। न ही क्लेम पेश किया। यूनियन को दिनांक 15-11-90 से निरन्तर क्लेम पेश करने के लिए समय दिया जा रहा है अब समय दिया जाना उचित नहीं है। यूनियन इस प्रकरण में रुचि नहीं ले रही है अतः इस प्रकरण में नो डिस्मिट अर्वाइ पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

जगत सिंह, न्यायाधीश

[सं. एल-30011/6/90—आई.प्रार. (विविध)]

का.प्र. 296. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, आयल एण्ड नेचुरल गैस कमीशन जोधपुर के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 296.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil and Natural Gas Commission, Jodhur and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी.आई.टी. 29/1991

रैफरेंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-30012/31/90—आई.प्रार. (विविध) दिनांक 11/11/90

श्री सतीश चन्द मस्ट-पुल श्री ईश्वर शंख

—प्रार्थी

बनाम

आयल एण्ड नेचुरल गैस कमीशन, जोधपुर
—प्रतिपक्षी

उपस्थिति :

प्रार्थी की ओर से : कोई हाजिर नहीं
प्रतिपक्षी की ओर से : कोई हाजिर नहीं
दिनांक अर्वाइ : 26-11-1991

अर्वाइ

फरीकेन की ओर से कोई हाजिर नहीं है। आज प्रार्थी को स्टेटमेंट आफ क्लेम पेश करना है लेकिन न तो स्टेटमेंट आफ क्लेम पेश हुआ है और न ही कोई प्रार्थी की ओर से हाजिर आया है। ऐसा प्रतीत होता है कि पक्षकार अब इस मामले में रुचि नहीं ले रहे हैं अतः प्रकरण में नो डिस्मिट अर्वाइ पारित किया जाता है, जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जगत सिंह, पीठासीन अधिकारी

[सं. एल-30012/31/90—आई.प्रार. (विविध)]

का.प्र. 297 : —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, रामपुरा अगुचा प्रोजेक्ट आफ हिन्दुस्तान जिंक लि. भीलवाड़ा के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 297.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Rampura Agucha Project of Hindustan Zinc Limited, Bhilwara and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी.आई.टी. 15/91

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना सं. एल 29011/28/90आई.प्रार. (विविध) दि. 0-11-90 अगुचा खान मजदूर संघ, भीलवाड़ा।

बनाम

रामपुरा अगुचा प्रोजेक्ट आफ हिन्दुस्तान जिंक लि., भीलवाड़ा।

उपस्थिति

श्रमिक संघ की ओर से : कोई हाजिर नहीं
नियोजक पक्ष की ओर से : कोई हाजिर नहीं
दिनांक अर्वाइ : 27-4-91

अर्वाइ

फरीकेन की ओर से कोई हाजिर नहीं है। यूनियन को आज स्टेटमेंट आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है और न ही क्लेम पेश किया है अतः इस प्रकरण में नो डिस्मिट अर्वाइ पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

[जगत सिंह, न्यायाधीश]

[सं. एल-29011/28/90—आई.प्रार. (विविध)]

का.प्र. 296. : —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रोजेक्ट मैनेजर कापर प्रोजेक्ट, दरीबा के प्रबन्धतंत्र के संबंध नियोजकों और उनके

कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 298.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Project Manager, Dariba Copper Project, Dariba and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी.आई.टी. 55/90

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या : एल-430/2/7/90/आई.आर. (विविध) दि. 16-8-90
दरीबा कॉपर परियोजना श्रमिक संघ, दरीबा, अलवर

बनाम

प्रोजेक्ट मैनेजर, दरीबा कापर प्रोजेक्ट, दरीबा

उपस्थिति

यूनियन की ओर से : श्री इन्द्रराज वर्मा
नियोजक की ओर से : श्री मनोज कुमार शर्मा
दिनांक अर्वाइव : 3-5-91

अर्वाइव

श्री इन्द्रराज वर्मा जनरल रिक्रेटर व श्री मनोज कुमार शर्मा की प्रार्थना पत्र पर मिस्य ग्राज पेश हुई। श्री दौलतराम श्रमिक खूब तथा श्री इन्द्र राज वर्मा जनरल सैक्रेटरी यूनियन की ओर से तथा श्री जे.एम. जाबलिया मय उनके प्रतिनिधि श्री मनोज कुमार शर्मा विपक्षी की ओर से उपस्थित हैं ग्राज पक्षकारान ने एक प्रार्थना पत्र के साथ बाह्यी समझौता पेश किया। समझौता तस्वीक किया गया अब यूनियन व विपक्षी नियोजक के बीच कोई विवाद नहीं रहा है बाह्यी समझौता के आधार पर अर्वाइव पारित किया जाता है समझौता अर्वाइव का अंग रहेगा अर्वाइव केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

संलग्न : समझौता

जगत सिंह, न्यायाधीश

[सं. एल-43012/7/90-आई.आर. (विविध)]

का.ग्रा. 299:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार, सैन्ट्रल साइंटिफिक इन्स्ट्रूमेंट सर्विस एण्ड मेंटेनेंस सेंटर जयपुर के प्रबन्धक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 299.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Scientific Instruments Service and Maintenance Centre, Jaipur and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 16/1987

रफरेंस

५१

भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-42012/55/05/सी-II-बी दिनांक 21-4-87 कुमारी लीलम्मा के.सी., के/ऑफ मिस ग्रेसी जोसेफ एस.डी.आर.एम. हॉस्पिटल, इंडियन ऑयल कम्पनी के सामने, 22-गोदाम, जयपुर-6।

—प्रार्थीया

बनाम

सैन्ट्रल साइंटिफिक इन्स्ट्रूमेंट सर्विस एण्ड मेंटेनेंस सेंटर जयपुर।

—अप्रार्थी

उपस्थिति

प्रार्थीया की ओर से : श्री जे.के. अग्रवाल
अप्रार्थी की ओर से : श्री कीरेन्द्र लोढ़ा
दिनांक अर्वाइव : 20-11-91

अर्वाइव

भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने निम्न विवाद हम न्यायाधिकरण को वास्ते अधिनियम अन्तर्गत धारा 10 (1) (डी) औद्योगिक विवाद अधिनियम 1947 अपनी उपरोक्त अधिसूचना द्वारा प्रेषित किया है :—

“क्या सैन्ट्रल साइंटिफिक इन्स्ट्रूमेंट सर्विस एण्ड मेंटेनेंस सेंटर, जयपुर के प्रबंधक की श्रीमती लीलम्मा के.सी. की 1-3-85 से सेवाएं समाप्त करने की कार्रवाई वैध और न्यायोचित है। यदि नहीं, तो संबंधित कर्मकार किम अनुगोष की हकदार है और किन तारीख से।”

कुमारी लीलम्मा के.सी. जिसे तत्पश्चात प्रार्थीया संबोधित किया है, ने जरिये क्लेम प्रकट किया है उसकी नियुक्ति विपक्षी द्वारा 3-8-83 को जूनियर स्टैनोप्राकर-कम एडमिनिस्ट्रेटिव असिस्टेंट के पद पर वैदिक वेतन पर की गई थी। उसका कार्य डिक्लेटेशन लेना, टाईप करना तथा त्रिसर्प व फाईलिंग का था जो उसने पूरी मेहनत व ईमानदारी से किया था। प्रार्थीया का कहना है कि उसने 2-8-83 से 2-11-83 तक वैदिक वेतन पर, 3-11-83 से 31-1-84 तक पीस रेट पर, 1-2-84 से 30-4-84 तक 550/ रु. प्रति माह निर्धारित वेतन पर, 1-5-84 से 31-10-84 तक पीस रेट पर और 1-11-84 से 28-2-85 तक 350 रु. प्रति मास फिक्सड दर पर कार्य किया था। उसने रोजाना प्रातः 9.00 बजे से शाम 5.00 बजे तक अप्रार्थी के कार्यालय में रहकर इपूटी की है कि अचानक 1-3-85 को अप्रार्थी ने मौखिक रूप से उसकी सेवाएं समाप्त कर दी। जिस बाबत प्रार्थीया ने आपत्ति की परंतु कोई उत्तर नहीं दिया।

3. प्रार्थीया कहती है कि उसने औद्योगिक विवाद अधिनियम की धारा 25-बी के अनुसार एक वर्ष में 240 दिनों से अधिक सेवा पूरी कर ली थी और जो कार्य वह करती थी वह स्थाई प्रवृत्ति का था और ग्राज भी अप्रार्थी के पास वह कार्य है फिर भी प्रार्थीया की सेवा मुक्ति करके उक्त पद को भरने के लिए विज्ञापन दिये गये। प्रार्थीया के अनुसार अप्रार्थी संस्थान में करीब 300 व्यक्ति कार्यरत हैं इसलिए धारा 25-एन की भी अवहेलना की गई है और उसकी सेवा मुक्ति के बाद अन्य व्यक्तियों द्वारा वही कार्य लिया जा रहा है तथा उसे नहीं बुलाया गया व इसलिए धारा 25-एफ व एच की भी अवहेलना की गई है।

4. अप्रार्थी नियोजक के जरिये प्रत्युत्तर यह तो स्वीकार किया कि प्रार्थीया की नियुक्ति 2-8-83 से की गई थी और उससे 2-11-83 तक ही कुल 80 दिवस कार्य लिया गया है। जिस रोज उसे सेवामुक्ति की सूचना दे दी गई थी। उक्त नियुक्ति भी वैदिक वेतन पर ही की गई थी तत्पश्चात 2-2-84 से कुल 3 माह के लिए प्रार्थीया को 550/ रुपये के वेतन पर कान्ट्रैक्ट बेसिस पर रखा गया था, उसके बाद भी प्रार्थीया को पीस रेट के आधार पर मई व अगस्त 1984 में कार्य दिया गया, अक्टूबर, 1984 में भी प्रार्थीया ने कान्ट्रैक्ट बेसिस पर टाईपिंग कार्य करने हेतु अन्य व्यक्तियों के साथ आवेदन किया था और प्रार्थीया की कोटे-शन सबसे कम थी इसलिए 1-11-84 से उसे 350 रुपये की निर्धारित राशि पर रखा गया था। नियोजक के अनुसार फरवरी 1985 में भी प्रार्थीया ने कान्ट्रैक्ट बेसिस पर ही टाईपिंग कार्य किया है।

नियोजक का कर्तव्य है कि उन्होंने धारा 25-एफ, एच अथवा एन की अवहेलना नहीं की क्योंकि प्रार्थीया उनके नियोजक में माह्र 80 दिन रही है और उनके संस्थान में 12 व्यक्तियों ने अधिक धर्मिक कार्यरत नहीं हैं। नियोजक के अनुसार सेवा मुक्ति के उपरान्त ही प्रार्थीया 600/- रुपये प्रति माह की दर से अत्यंत कार्यरत है इसलिए किसी लाभ की अधिकारिणी नहीं है।

5. अपने कथनों के समर्थन में कुमारी लीलम्मा के सी. ने स्वयं का शपथ पत्र प्रस्तुत कर मर्यापित कराया जिसमें नियोजक प्रतिनिधि ने जिरह की और प्रालेखिक साक्ष्य में डब्ल्यू-1 प्रमाण पत्र तथा डब्ल्यू-2 हाजिरी रजिस्टर पेश किए। इसके विपरीत नियोजक की तरफ से भी एम. शिवागामीनाथन का शपथ पत्र पेश हुआ है जिससे श्रमिक प्रतिनिधि ने जिरह की है। नियोजक की तरफ से भी प्रालेखिक साक्ष्य में प्रवेश एम-1 लगायत एम-4 फोटो प्रतियां प्रस्तुत हुई हैं। तत्पश्चात् मैंने पत्राचार का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तारपूर्वक सुना।

6. अपने क्लेम के अनुसार ही कुमारी लीलम्मा ने अपने शपथ पत्र में भी दर्ज किया है कि उसका मुख्य कार्य डिप्टेण्ट वेन, टाईप करना, डिस्पैच रिमिट करना व फाईलिंग करना था और उसने उक्त कार्य 3-8-83 को करना प्रारंभ किया था जिसे 28-2-85 तक लगातार किया है। प्रार्थीया यह भी कहती है कि प्रातः 9.00 बजे से शाम 5.00 बजे तक नियोजक के कार्यालय में रहकर वह उक्त कार्य करती थी। नियोजक की ही मशीन पर वह टाईप करती थी। उक्त कार्य करने बाबत नियोजक की तरफ से उसे डब्ल्यू-1 प्रमाण पत्र भी दिया गया था हालांकि कुमारी लीलम्मा के सी. ने क्लेम के अनुसार ही शपथ पत्र में भी स्पष्ट कथन किया है कि उसने 2-8-83 से 28-2-85 तक लगातार 9.00 बजे से 5.00 बजे तक अप्रार्थी के कार्यालय में उपस्थित होकर इपटी थी है और टाईप करने के अलावा रिमिट, डिस्पैच व फाईलिंग का भी कार्य किया है परंतु फिर भी नियोजक प्रतिनिधि ने कुमारी लीलम्मा से विस्तारपूर्वक प्रति-परीक्षा नहीं की। सुभाव के रूप में भी यह नहीं पूछा कि कुमारी लीलम्मा ने कभी भी रिमिट डिस्पैच अथवा फाईलिंग का कार्य नहीं किया हो या प्रातः 9.00 बजे से शाम 5.00 बजे तक कार्यालय में रहकर कार्य नहीं किया हो, इसलिए कुमारी लीलम्मा का शपथ पत्र में उपरोक्त किया गया कथन साबित हो जाता है क्योंकि कुमारी लीलम्मा के मौखिक शपथ पत्र की पुष्टि नियोजक द्वारा दिये हुए प्रमाण, पत्र प्रदर्शक डब्ल्यू-1 से भी होती है।

7. यह उल्लेखनीय है कि अप्रार्थी नियोजक ने क्लेम के प्रत्युत्तर में तो इतना ही स्वीकार किया है कि कुमारी लीलम्मा ने 2-8-83 से 2-11-83 तक 80 दिवस ही अप्रार्थी के नियोजन में रहकर कार्य किया है और तत्पश्चात् कॉन्ट्रैक्ट बेसिस पर अथवा पीस रेट पर टाईपिंग का कार्य किया है। ऐसा ही कथन नियोजक की तरफ से श्री एस. शिवागामीनाथन ने भी अपने शपथ पत्र में किया है परन्तु उक्त तथ्यों में सत्यता का आभास नहीं होता क्योंकि श्री एस. शिवागामीनाथन प्रति-परीक्षा में स्वीकार करते हैं कि उन्हें कंस के बारे में व्यक्तिगत जानकारी नहीं है और रिकार्ड के आधार पर ही वह बयान दे रहा है। अर्थात् तत्कालीन समय में श्री शिवागामीनाथन अप्रार्थी संस्थान में नियोजित नहीं थे। प्रति परीक्षा में तो नियोजक माधी ने यह कहा है कि 3-11-83 से 31-3-84 तक कुमारी लीलम्मा ने काम नहीं किया परन्तु कुमारी लीलम्मा के प्रार्थना पत्र पर इस ग्यालालय ने अप्रार्थी को दिनांक 19-1-88 को आदेश दिया है कि वे 2-8-83 से 28-2-85 तक का दैनिक वेतन भोगी कर्मचारियों का हाजिरी रजिस्टर पेश करें और उक्त अवधि का ही रिमिट डिस्पैच रजिस्टर भी पेश करें ताकि वास्तविकता का पता लगाया जा सके, परन्तु नियोजक की तरफ से 1983 तक का ही रजिस्टर पेश हुआ है। 1984 का हाजिरी रजिस्टर नियोजक ने न्यायालय में पेश नहीं किया और न ही उक्त रजिस्टर पेश नहीं करने का कोई उचित कारण बताया। इससे यह निष्कर्ष निकलता है कि संभवतः प्रार्थी या कुमारी लीलम्मा के कथनों में सत्यता का आभास होता है कि उक्त रजिस्टर में 1984 में भी उसके हस्ताक्षर थे इसलिए 1984 का हाजिरी रजिस्टर नहीं पेश करने पर

नियोजक के खिलाफ "गडवर्ग इन्क्वैरी" निकाला जाता है कि अगर वह रजिस्टर पेश किया जाता तो नियोजक के कथनों के विपरीत होता। दिनांक 2-8-83 से 28-2-85 तक का नियोजक की तरफ से जो रिमिट, डिस्पैच रजिस्टर पेश हुआ है उसमें भी कुमारी लीलम्मा के हाथ से की की गई प्रविष्टियां हैं। उक्त रजिस्टर पेश होने के बाद कुमारी लीलम्मा ने अतिरिक्त शपथ पत्र भी पेश किया है। उस रोज की आवेष्टिका से प्रकट हुआ कि नियोजक प्रतिनिधि ने कुमारी लीलम्मा से इस अतिरिक्त शपथ पत्र पर कोई जिरह नहीं की इसलिए 13-4-88 के शपथ पत्र में दर्ज तथ्य भी साबित हो जाते हैं कि 2-8-83 से 28-2-85 तक के रिमिट व डिस्पैच रजिस्टर में भी कुमारी लीलम्मा के हाथ की ही की गई प्रविष्टियां हैं। उक्त रजिस्टर ब्रह्म के दौरान भी मेरे समय था और नियोजक प्रतिनिधि यह स्पष्ट नहीं कर पाये कि 2-8-83 से 28-2-85 तक की अवधि में ग्योत्र डिस्पैच रजिस्टर में की गई प्रविष्टियां कुमारी लीलम्मा की वजाय किसी अन्य व्यक्ति की हों। कुमारी लीलम्मा ने नियोजक द्वारा प्रस्तुत प्रालेखिक साक्ष्य प्रदर्शक एम. 1 लगायत एम. 4 को स्वीकार किया है जिस बाबत कुमारी लीलम्मा का कथन है कि नियोजक के कहने से उसने उपरोक्त पत्रों पर हस्ताक्षर किये हैं, वास्तव में उसने कान्ट्रेक्ट बेसिस पर कोई कार्य नहीं किया था बल्कि निर्धारित वेतन पर या दैनिक वेतन पर टाईपिंग के अलावा रिमिट डिस्पैच व फाईलिंग का कार्य किया है। पक्षकारों द्वारा प्रस्तुत उपरोक्त साक्ष्य के विपक्ष में मेरी राय में कुमारी लीलम्मा ने 2-8-83 से 28-2-85 तक लगातार कार्य किया है और प्रातः 9.00 बजे से शाम 5.00 बजे तक नियोजक के कार्यालय में रहकर सेवा की है तथा टाईपिंग के अलावा रिमिट डिस्पैच व फाईलिंग का कार्य भी किया है इसलिए 28-2-85 को समाप्त हुए एक कैलेंडर वर्ष में उसने 240 दिनों से अधिक कार्य कर लिया था और धारा 25बी के अनुसार लगातार 1 वर्ष अथवा उससे अधिक सेवा पूरी कर ली थी चाहे नियोजक ने उसकी नियुक्ति प्रथम 3 माह दैनिक वेतन पर की हो तत्पश्चात् कुछ अवधि के लिए पीस रेट पर तथा कुछ अवधि के लिए निश्चित वेतन पर काम लिया हो इससे प्रार्थीया के अधिकारों पर कोई प्रतिकूल प्रभाव नहीं पड़ता क्योंकि जो कार्य प्रार्थी से लिया गया था वही कार्य उससे तत्पश्चात् भी लिया गया है। अप्रार्थी नियोजक ने 25-एफ के प्रावधानों की पालना नहीं की इसलिए 1-3-85 से की गई सेवा मुक्ति छंटनी की परिभाषा में आने से अनुचित एवं अवैध हो जाती है।

8. यह उल्लेखनीय है कि 1-3-85 के उपरान्त भी उसी कार्य के लिए जो कार्य प्रार्थीया से लिया गया था, अप्रार्थी नियोजक के पद भरने के लिए, विज्ञापन किया था और तत्पश्चात् नियुक्ति भी की थी इसलिए भी यह निष्कर्ष निकलता है कि अप्रार्थी के पास प्रार्थीया द्वारा किया जाने वाला कार्य अस्थाई प्रकृति का नहीं था इसलिए भी प्रार्थीया की 1-3-85 से सेवा मुक्ति करना न्यायोचित नहीं था।

9- मेरी राय में अप्रार्थी द्वारा न तो धारा 25-एच की अवहेलना हुई है और न ही 25 एन की अवहेलना हुई है क्योंकि प्रार्थीया की ही तरह उसकी सेवा मुक्ति के उपरान्त दैनिक वेतन पद किसी अन्य व्यक्ति को नियोजित नहीं किया बल्कि अप्रार्थी ने नियमानुसार विज्ञापन देकर तथा अभ्यर्थियों की परीक्षा लेकर तथाकथित नियुक्ति की है और अप्रार्थी संस्थान में 300 व्यक्तियों का नियोजन में होना भी साबित नहीं है अतः धारा 25-एच और एन की अवहेलना होना साबित नहीं है।

10- अप्रार्थी का कथन यह था कि सेवा मुक्ति के उपरान्त से ही प्रार्थीया 600 रुपये प्रति माह की दर से अत्यंत नियोजित है जिस बाबत अप्रार्थी की तरफ से श्री एस. शिवागामीनाथन ने शपथ पत्र दिया है और दिनांक 30-7-85 के पत्र की फोटो प्रति प्रस्तुत की है जो कुमारी लीलम्मा ने प्रधान मंत्री को लिखा था और जिसके पैरा नं. 5 में यह उल्लेख है कि अपना जीवन निर्वाह करने हेतु प्रार्थीया ने किसी फर्म में नौकरी कर ली थी जहां पर भी नियोजक के अधिकारी शिकायत करने पहुंच गये। इस पत्र बाबत प्रतिपरिष्ठा करने पर नियोजक प्रार्थीया का

कहना है कि इस पत्र के संबंध में मुझे व्यक्तिगत ज्ञान नहीं है कि कुमारी लीलम्मा क्या कमाती थी। तत्पश्चात् नियोजक साक्षी कहता है कि कुमारी लीलम्मा गुप्ता एक्सरे क्लीनिक में काम करती है जहाँ पर उसे कार्य करने एक दिन उसने स्वयं ने देखा था। हानांकि कुमारी लीलम्मा से इस बाबत विस्तारपूर्वक प्रश्न परीक्षा नहीं की गई है फिर भी अधिवेश पर उपलब्ध साक्ष्य से यह साबित नहीं है कि कुमारी लीलम्मा सेवा मुक्ति के उपरान्त से अन्यत्र कहीं भी लाभप्रद नियोजन में रही हो। किसी भी सेवा मुक्त श्रमिक से यह अपेक्षा नहीं की जा सकती कि वह औद्योगिक विवाद के निर्णय तक प्रतिनियोजित रहे और स्वयं अवकाश परिवार का पालन करने के लिए अन्यत्र कोई भी काम नहीं करे। अतः उपरोक्त समस्त कारणों से यह साबित नहीं है कि कुमारी लीलम्मा किसी लाभप्रद नियोजन में सेवा मुक्ति के पश्चात् रही हो।

11. तथ्यों व विधिक तथ्यों के उपरान्त इस निर्देश का अधिनियम निम्न प्रकार किया जाता है :

“कुमारी लीलम्मा के. सी. को 1-3-85 से सेवा मुक्त करने की कार्यवाही बंध और न्यायोजित नहीं है और सेवा मुक्ति आदेश प्रदान किया जाना है और उसे जूनियर स्टेनोग्राफर कम-एडमिनिस्ट्रेटिव असिस्टेंट के पद पर नियोजित घोषित किया जाता है। उसकी सेवा की निरंतरता कायम रखी जाती है तथा उसे 1-3-85 से बकाया वेतन व अन्य सभी लाभ विलाये जाने हैं। 100/- रुपये खर्च मुकदमा भी विलाया जाता है। अगर नियोजक अंदर तीन माह यह राशि उसे भुगत नहीं करेगा तो 12 प्रतिशत प्रति वर्ष की दर से ब्याज भी देना पड़ेगा।”

12. उक्त प्रकार से इस निर्देश का अधिनियम दिया जाता है जो केन्द्र सरकार को प्रकाशनाथ अन्तर्गत धारा 17 (1) अधिनियम भेजा जाये।

जगत सिंह, पीठासीन अधिकारी

[सं. एल-42012/55/85-सी-III (जी)]

का. आ. 300 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, 1 राजस्थान स्टेट मिनरल डेवलपमेंट कारपोरेशन लि. (भार. एस. एम. डी. सी.) तिलक मार्ग, जयपुर, 2 राजस्थान स्टेट टंगस्टन डेवलपमेंट कारपोरेशन, जयपुर के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 300.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of 1. Rajasthan State Mineral Development Corporation Limited (R.S.M.D.C.) Tilak Marg, Jaipur. 2. Rajasthan State Tungston Development Corporation, Jaipur and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 50/1987

रैफरेंस: भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक

एल. 26011/22/85-सी-III (जी) दिनांक 5 जून, 1987

खनिज विकास निगम टंगस्टन सज्जूर संघ, टंगस्टन परियोजना बैंक, डेगाना, जिला नागौर--प्रार्थी

बनाम

1. राजस्थान स्टेट मिनरल डेवलपमेंट कारपोरेशन लि. (भार. एस. एम. डी. सी.) तिलक मार्ग, जयपुर।

2. राजस्थान स्टेट टंगस्टन डेवलपमेंट कारपोरेशन, जयपुर--अप्रार्थी

उपस्थित :

प्रार्थी नियुक्त की ओर से :

अप्रार्थी नियुक्त की ओर से :

दिनांक धारा :

श्री जे. के. प्रताप

श्री केवलराम एवं श्री जे. एल. भापुर

29-11-91

अर्थात्

भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने उपरोक्त आदेश द्वारा निम्न विवाद इस न्यायाधिकरण को वास्ते अधिनियम औद्योगिक विवाद अधिनियम, 1947 के अन्तर्गत प्रेषित किया है :—

“क्या राजस्थान राज्य खनिज विकास निगम लि. जयपुर आर.एस.टी.डी.सी. के प्रबंधन की श्रीमती केमरी पूसा तथा श्रीमती नारायणी बाबा की 13-3-1984 और 16-3-84 से सेवाएं समाप्त करने की कार्यवाही न्यायोजित, बंध तथा उचित है जबकि इन कर्मचारियों ने 23-2-84 को प्रबंधन को बताया था कि उन्होंने सेवा से त्याग पत्र नहीं दिया था बल्कि भविष्य निधि अण के भुगतान के बहाने से कोरे कागज पर उनके हस्ताक्षर करवा लिए गए थे। यदि नहीं तो उक्त कर्मकार किम अनुतोष की हकदार है तथा किस अवस्थिति में अप्रार्थी आर.एस.एम.डी.सी. से या आर.एस.टी.डी.सी. (जुलाई 1984 में गठित आर.एस.एम.डी.सी.) को सहायक गाछा)”

2. खनिज विकास निगम टंगस्टन सज्जूर संघ, टंगस्टन परियोजना डेगाना जिला नागौर जिसे तत्पश्चात् प्रार्थी संघ संवेधित किया है, ने जरिये क्लेम प्रकट किया कि श्रीमती केमरी पूसा एवं श्रीमती नारायणी पूसा बाबा, टंगस्टन परियोजना डेगाना में गत 12 वर्षों से कार्यरत श्रमिक थे जिनका मासिक वेतन 480 रुपये था। जुलाई 1984 में राजस्थान राज्य टंगस्टन विकास निगम का स्थानान्तरण टंगस्टन परियोजना में हो गया था जो कि राजस्थान राज्य खनिज विकास निगम की ही उन्नावि-कारी कम्पनी थी इसलिए दोनों अप्रार्थीग को पक्षकार बनाया है।

3. प्रार्थी संघ का कहना है कि दोनों श्रमिकगण स्त्रियां थी तथा प्रशिक्षित थी और हस्ताक्षर करना भी नहीं जानती थी, उनकी इस कमी का दुरुपयोग करते हुए 23-2-84 को उनके भंगूटे खाली कागजों पर आर.एस.एम.डी.सी. के प्रबंधकों ने यह कहकर लगवा दिए कि उन्हें निगम से कर्जा विलाया जाएगा परन्तु उपरोक्त दोनों भंगूटे लगे खाली कागजों का दुरुपयोग करते हुए स्त्री श्रमिकों को कर्जा विलाने की बजाय उनका प्रयोग त्याग पत्र लिखने के लिए कर लिया गया। भंगूटा लगे उपरोक्त खाली कागजों का दुरुपयोग त्याग पत्र हेतु करने की बाबत एवोही सूचना मिली क्योंकि दोनों श्रमिकों ने 24-2-84 को प्रबंधकों को सूचित कर दिया कि उन्होंने त्याग पत्र नहीं दिये हैं परन्तु फिर भी श्रमिक केमरी की त्याग पत्र 13-3-84 से और श्रीमती नारायणी का त्याग पत्र 16-3-84 से स्वीकार कर लिया गया। प्रार्थी संघ का कहना है कि उपरोक्त दोनों प्रशिक्षित महिला श्रमिकों ने त्याग पत्र नहीं दिये थे और खाली कागजों पर धोखे से उनके भंगूटे अण देने का आशयन देकर लगवाये गये थे और चूंकि इन कागजों का दुरुपयोग त्याग पत्र लिखकर किया गया है इसलिए तथाकथित त्याग पत्र श्रमिकों ने स्वेच्छा से नहीं दिये हैं एवं त्याग पत्र मंजूर करने से पूर्व ही 23-2-84 को श्रमिकों ने लिखित में भी निवेदन कर दिया था कि उन्होंने त्याग पत्र नहीं दिया है और वे सेवा में रहना चाहती हैं इसलिए त्यागपत्र स्वीकार नहीं किये जायें फिर भी नियोजक द्वारा त्यागपत्र स्वीकार करने से एवं श्रमिकों को कार्यमुक्त करने से उनके व उनके परिवार के प्रति अन्याय होता है। प्रार्थी संघ की प्रार्थना है कि 13-3-84 एवं 16-3-84 से ही न दोनों श्रमिकों को सेवा में मानते हुए इनको वेतन व अन्य सभी लाभ विलाये जायें।

4. अप्रार्थी सं. 2 ने जरिये प्रत्युत्तर क्लेम के कथनों को प्रस्वीकार किया है और कहा है कि दोनों श्रमिक टंगस्टन परियोजना डेगाना में 1974 से कार्यरत थीं और उनका वेतन करीब 380 रुपये प्रति माह था। निमोनक

नियोजक के अनुसार दोनों श्रमिकों ने अपनी स्वेच्छा से त्यागपत्र दिया था जिन्हें 11-2-84 व 15-2-84 को स्वीकार करने हुए 13-3-84 एवं 16-3-84 से श्रमिकों का कार्यमुक्त किया था। श्रमिकों द्वारा 23-2-84 को त्यागपत्र वापिस लेने की अर्जी पेश की गई थी परन्तु हमसे पूर्व ही उनके त्याग पत्र 11-2-84 व 15-2-84 को स्वीकार हो चुके थे इसलिए ये श्रमिक त्याग पत्र वापिस नहीं ले सकती थीं। नियोजक का यह भी कहना है कि इन दोनों श्रमिकों से खाली कागज पर अंगूठे नहीं लगाये गये और न ही उनसे निगम से कर्जा दिलाने की बाबत कहकर खाली कागजों पर अंगूठे लगावाये गये हैं। इसलिए ये श्रमिकगण किसी राहत के अधिकारी नहीं हैं।

5. अप्रार्थी सं. 1 ने भी स्लेम के कथनों को अस्वीकार करते हुए कहा है कि राजस्थान सरकार के निर्णय के अन्तर्गत राज्य सरकार टंगस्टन विकास निगम के नाम से एक अल्प कम्पनी बनाई गई थी जिसके अधीन टंगस्टन परियोजना डेगाना के समस्त श्रमिक भी 1 जुलाई 1984 में अप्रार्थी सं. 1 द्वारा स्थापनापत्रित किये गये थे। 26 जुलाई, 1984 को जो समझौता हुआ था उसके चरण सं. 8 के अनुसार उक्त दिनांक से पूर्व में किए गए कार्यों की बाबत जो वेय होगा वह अप्रार्थी सं. 1 द्वारा वहन किया जायेगा भलिए अप्रार्थी सं. 2 पर इस विवाद के निर्णय को नहीं धोपा जा सकता।

6. प्रार्थी सं. 1 की तरफ से सर्वश्री मदन, शिशकरण, रामकुमार सिंह रामसिंह राठौर, उदय शंकर टांक, श्रीमती जमनूड़ी के अलावा श्रीमती नारायणी बाला एवं श्रीमती केसूड़ी ने भी शपथ पत्र पेश किये हैं जिनसे अप्रार्थीगण के प्रतिनिधि ने प्रति परीक्षा भी की है। इसके विरोधी अप्रार्थीगण की तरफ से श्री एल.एम. राठौर, श्री आर.के. वीक्षित, श्री गणपत लाल फिरोबा ने शपथ पत्र पेश किये हैं जिनसे सं. 2 के प्रतिनिधि ने जिरह की है। प्राथमिक साक्ष्य में महिला साक्ष्य द्वारा प्रस्तुत तथ्यांकित त्याग पत्रों की फोटों प्रतियां अक्टूबर 1 व 2 एवं उन्हीं के द्वारा दिनांक 23-2-81 को त्याग पत्र वापिस लेने की अर्जियां की भी फोटो प्रतियां प्रस्तुत की गई हैं। दिनांक 13-3-84 व 16-3-84 से इन श्रमिकों का कार्य मुक्त करने के आदेश की भी फोटो प्रतियां पेश हुई हैं। नियोजक पक्ष की तरफ से भी दिनांक 3-9-84 के आदेश की फोटो प्रति पेश हुई है और टंगस्टन परियोजना, डेगाना में कार्यरत श्रमिकों की भी सूची प्रस्तुत हुई है जो अप्रार्थी सं. 2 के यहाँ स्थापनापत्रित हुए हैं। तत्पश्चात् मैने पत्रावला का निरीक्षण किया और पत्रावला के प्रतिनिधियों को विस्तार पूर्वक सुना।

7. मेरे समय विशादयम बिन्दु यह है कि क्या दोनों महिला श्रमिकों ने स्वेच्छा से त्याग पत्र दिये थे अथवा उनके अंगूठे खाली कागजों पर यह कहकर करवा लिये गये कि उन्हें निगम से कर्जा दिलाया जायेगा। श्रीमती नारायणी ने अपने शपथ पत्र में कहा है कि उसमें एक खाली कागज पर यह कहते हुए अंगूठा निशानी करा तो कि लोन पास कराया जायेगा। साक्षी का कहना है कि उसे 23-2-84 को यह बात हुआ कि जिस खाली कागज पर अंगूठा निशानी कराई है उसे लोन पास करने के काम में नहीं लिया गया बल्कि स्टाफ लिखने के लिए काम में लिया गया है। साक्षी का कहना है इस पर उम्मी रोज उसने लिखकर दे दिया कि उसने स्टाफ नहीं दिया और वह विपक्षी संस्थान में काम करता चाहता है, इसके बावजूद भी 13-3-84 से उसको सेवा समाप्त कर दी। ऐसे ही कथन श्रीमती केसूड़ी ने भी अपने शपथ पत्र में किये हैं। इन दोनों महिला श्रमिकों ने विस्तारपूर्वक प्रतिपरीक्षा नहीं की गई है। नियोजक से यह अपेक्षा थी कि यह इन श्रमिकों के प्रति परीक्षा से अपनी साक्ष्य द्वारा यह साबित करने का प्रयास करता है कि इन दोनों श्रमिकों ने जो त्याग पत्र दिये थे वे स्वेच्छा से ही दिये थे विरोधक इस परिस्थिति में जब दोनों श्रमिक अशिक्षित हैं और निशानी अंगूठा लगाने हैं और गण 12 वर्षों से नियोजक संस्थान में कार्यरत हैं तो उनके द्वारा सेवा से त्याग पत्र देने का कोई उचित कारण नहीं था।

8. प्रार्थी सं. 1 की तरफ से श्री मदन, शिशकरण व रामकुमार सिंह ने भी शपथ पत्र प्रस्तुत किये हैं और कहा है कि उदय शंकर जो ने केसूड़ी व नारायणी से लोन पास कराने के बहाने खाली कागज पर अंगूठा

निशानी करवाई। इन मित्रों ने कभी भी उदय शंकर से स्टाफ लिखने को नहीं कहा। उपरोक्त तीनों साक्षी भी अप्रार्थी संस्थान में कार्यरत श्रमिक हैं और इनसे विस्तारपूर्वक प्रति परीक्षा भी की गई है परन्तु ये साक्षी प्रति परीक्षा में पूछे गये प्रश्नों में तनिक भी विचलित नहीं हुए और न ही इन्होंने कोई विरोधाभासी उत्तर दिये। अतः निष्पक्ष कोटि के सत्यवादी साक्षी पाये जाते हैं जो प्रार्थी सं. 1 की तरफ राम सिंह राठौर ने भी शपथ पत्र प्रस्तुत किया है जो सं. 2 का महासचिव भी है, उसने भी कहा है कि उसे केसूड़ी व नारायणी ने बताया कि उनके अंगूठे खाली कागजों पर करा लिये हैं जिनका प्रयोग स्टाफ लिखने में किया जा रहा है। उदय शंकर टांक का शपथ पत्र भी सं. 2 की तरफ से पेश हुआ है जो भी कहता है कि उसने केसूड़ी व नारायणी से यह कहते हुए खाली कागज पर अंगूठा निशानी करवाई थी कि उनका लोन पास कराया जायेगा। साक्षी के अनुसार माघ में प्रबन्धक ने उसमें ही उक्त खाली कागजों पर स्टाफ भी लिखा था। साक्षी के अनुसार केसूड़ी व नारायणी के अंगूठे लगे हुए खाली कागजों पर त्याग पत्र की लिखावट उसी के हाथ की है। साक्षी कहता है कि उसने लक्ष्मी मिश्र राठौर मैनेजर के आदेश से दोनों महिला श्रमिकों के अंगूठे निशानी लगावाई थी और त्याग पत्र लिख दिये थे। श्री टांक का कहना है कि मैनेजर लक्ष्मी मिश्र राठौर के आदेश थे कि जैसे तेरे आदमी कम करने हैं। प्रति रक्षा में भी उदयशंकर टांक ने कहा है कि श्री राठौर का कहना था कि 15-20 आदमी कम करने हैं इसलिए उसने इन दोनों श्रमिकों के अंगूठे लगे खाली कागजों पर स्टाफ भर दिये। यह उल्लेखनीय है कि श्री उदयशंकर विपक्षी संस्थान में समय पावक के पद पर हैं और उसका नियोजक के विरुद्ध मिथ्या कथन करने का कोई कारण नहीं था। उपरोक्त समस्त साक्ष्य के विपरीत अप्रार्थी की तरफ से श्री एल.एम. राठौर ने यह स्वीकार किया है कि त्याग पत्र स्वीकार करने से पूर्व इन श्रमिकों को नोटिस नहीं दिये। त्याग पत्र के साथ-साथ एक-एक हजार रुपये पो.ए.क. का भी दिया गया था इसलिए भी श्रमिकों के कथन में सत्यता का आभास होता है कि संभवतः लोन का बहाना बनाकर उनसे खाली कागज पर अंगूठे लगावाये हैं। श्री एल.एम. राठौर ने शपथपत्र में तथा प्रति परीक्षा में यह तो कह दिया कि त्याग पत्र स्वेच्छा से दिये गये थे परन्तु श्री राठौर यह नहीं कहता है कि उन्होंने श्रीमती केसूड़ी अथवा श्रीमती नारायणी से व्यक्तिगत रूप में उक्त विषय में पूछ नाछ कर तो ही। यह उल्लेखनीय है कि जब 24-2-84 को दोनों श्रमिकों ने लिखकर दे दिया था कि उन्होंने त्याग पत्र नहीं दिया और वे सेवा करना चाहते हैं फिर भी प्रबन्धक ने इन श्रमिकों को संतुष्ट करने का प्रयास नहीं किया और ना ही यह तरीका का कि श्रमिकों ने स्वेच्छा से त्याग पत्र पर अंगूठे लगाये थे उनके अंगूठे खाली कागजों पर घोखा देकर लगाये गये थे।

9. नियोजक पक्ष की ओर से श्री आर.के. वीक्षित ने भी शपथ पत्र दिया है कि जो प्रार्थी सं. 1 के अर्थात् महाप्रबन्धक के पद पर कार्यरत है और जून 1981 से नवम्बर 1983 तक टंगस्टन परियोजना, डेगाना में श्रमिक कल्याण अधिकारी के पद पर कार्यरत थे। यह साक्षी श्रमिकों के त्याग पत्र स्वेच्छा से देने बाबत कथन नहीं करता है बल्कि 1-7-84 से टंगस्टन परियोजना डेगाना का स्थानान्तरण राजस्थान राज्य टंगस्टन विकास निगम में करने का भी उल्लेख करता है। इसी प्रकार नियोजक साक्षी श्री गणपतलाल फिरोबा टंगस्टन परियोजना डेगाना में प्रोजेक्ट मैनेजर थे ये भी स्वेच्छा से त्याग पत्र बाबत कथन नहीं करते। इसलिए नियोजक की तरफ से अभिलेख पर ऐसी नाम मात्र की भी साक्ष्य नहीं है कि दोनों अशिक्षित महिला श्रमिकों ने तथ्यांकित त्याग पत्र स्वेच्छा से दिया हो। नियोजक से यह अपेक्षा थी कि ये हम बात की तहकीकात करते कि 12 वर्षों से कार्यरत महिला अशिक्षित श्रमिक एक-एक त्याग पत्र क्यों दे रहा है। दोनों महिलाओं द्वारा प्रस्तुत तथ्यांकित त्याग पत्रों को देखने से भी प्रकट होता है कि इस पर अंगूठे के निशान पहले लगाये गये थे और बाद में इन्हें भरा गया था। क्योंकि इन त्याग पत्रों की भाषा में ही यह निष्कर्ष निकलता है कि ये किसी महिला के बाबत नहीं लिखे गये हैं बल्कि पुरुष बाबत लिखे गये हैं जैसे, 'खान पर कार्य कर रहा है, आगे कार्य करने का इच्छुक नहीं हूँ और स्वेच्छा से त्याग पत्र दे रहा हूँ।'

भ्रमर महिला बाबत ये त्याग पत्र लिखे गये होते इसकी भाषा "भ्रमर पर कार्य कर रही हूँ, भ्रमर कार्य करने की इच्छा नहीं हूँ, स्वेच्छा से त्याग पत्र दे रही हूँ" जैसी भाषा का प्रयोग होता। यह भी उल्लेखनीय है कि त्याग पत्र लिख लिया गया था इसके बाद इन महिलाओं के नाम एवं टोकन नं. तथा पद भरे गये हैं क्योंकि बाकी इधर से महिलाओं के नाम, टोकन नं., पद को लिखावट व स्याही भिन्न है। नाम भरने के लिए जितनी जगह खाली छोड़ी गई थी उतनी अपर्याप्त थी इसलिए टोकन नं., नाम के नीचे लिखा गया है तथा त्याग पत्र की इधर से खस होने के और अंगुठे निशानी के बीच में इतनी जगह खाली पड़ी है कि कम से कम चार हाइनें और लिखी जा सकती है। त्याग पत्र लिखने वाले उदय शंकर टांक ने ही जब श्रमिकों के कथन की पुष्टि कर दी है कि उसी ने श्रमिकों से यह कहकर खाली कागजों पर अंगुठे लगाये थे कि उन्हें ऋण दिलाया जायेगा और उन खाली अंगुठा लगे कागजों का प्रयोग श्री एल.एस. राठौड़ के कहने से त्याग पत्र लिखने के लिए किया गया है। श्री उदय शंकर टांक तत्कालीन समय पर समय पालक थे और वर्तमान में भी इसी पद पर कार्यरत हैं। इनका नियोजक के विरुद्ध मिथ्या कथन करने का कोई कारण नहीं था। अतः उपरोक्त समस्त कारणों व परिस्थितियों से अभिलेख पर निरोजक की तरफ से ऐसी विवशनीय साक्ष्य पेश नहीं हुई है कि इन अधिभूत महिला श्रमिकों ने स्वेच्छा से त्याग पत्र दिया हो बल्कि इसके विपरीत प्रार्थी संघ की साक्ष्य से यह साबित है कि इन दोनों महिला अधिभूत श्रमिकों से खाली कागज पर यह कहकर अंगुठा लगा लिया कि उन्हें निगम से ऋण दिलाया जायेगा और उन खाली कागजों का प्रयोग त्याग पत्र लिख कर किया गया। नियोजक के इस कथन में बल नहीं है कि त्याग पत्र 11-2-84 व 15-2-84 को स्वीकार कर लिये गये थे जिसकी सूचना श्रमिकों को मिल गई थी इसलिए श्रमिकों ने 23-2-84 के पत्रों द्वारा त्याग पत्र वापिस लेने की प्रार्थना की है। अभिलेख पर नाम मात्र की भी ऐसी साक्ष्य नहीं है कि आदेश सं. 1350 दिनांक 11-2-84 एवं आदेश सं. 1439 दिनांक 15-3-84 को सूचना 23-2-84 से पूर्व श्रमिकों को प्रथम प्रार्थी संघ की दे दी गई हो बल्कि इसके विपरीत इस संभावना से भी इंकार नहीं किया जा सकता कि जब 23-2-84 को दोनों श्रमिकों ने लिखित में प्रकट किया कि उन्होंने सेवा से त्याग पत्र नहीं दिया है तो नियोजक ने 11-2-84 एवं 15-2-84 की तारीखों में त्याग पत्र स्वीकृति के आदेश निकाले हों। मेरी राय में भ्रमर 11-2-84 व 15-2-84 का त्याग पत्र स्वीकार हो गया था तो इन श्रमिकों को 13-3-84 एवं 16-3-84 क्रमशः से सेवा मुक्त करने का कोई कारण नहीं था। अतः उपरोक्त समस्त कारणों से इन श्रमिकगण के त्याग पत्र स्वेच्छा से नहीं बिय गये थे और इनके त्याग पत्रों की तथाकथित स्वीकारोक्ति भी अनुचित थी और य श्रमिकगण 13-3-83 व 16-3-84 से ही सेवा में नियोजित घोषित किये जाते हैं।

10. अप्रार्थी सं. 1 का कथन यह था कि 26 जुलाई, 1974 के समझौते से 1 जुलाई 1974 से अप्रार्थी सं. 1 से इंटिग्रेटड विकास परियोजना, डेगाना के समस्त कार्य अप्रार्थी सं. 2 स्थानान्तरित हो चुके हैं इसलिए भ्रमर इन श्रमिकों का त्याग पत्र स्वेच्छा से दिया जाता नहीं माना जा रहा तो उन्हें पुनः नियोजित नहीं किया जा सकता। इसके विपरीत अप्रार्थी सं. 2 का यह कहना है कि 26 जुलाई, 1984 के समझौते की धारा सं. 6 के अनुसार उक्त दिनांक से पहले के दायित्व अप्रार्थी सं. 1 के ही हैं और इसके लिए उन्हें उत्तरदायी नहीं ठहराया जा सकता यह उल्लेखनीय है कि अप्रार्थी सं. 2 अप्रार्थी सं. 1 की ही सबसेडीमरी कंपनी है इसलिए जाहे 26 जुलाई, 1984 के समझौते में कुछ भी हुआ हो, अप्रार्थी सं. 1 द्वारा किये गये कार्यों का उत्तरदायित्व अप्रार्थी सं. 2 पर भी डाला जा सकता है क्योंकि दोनों अप्रार्थीगण राज्य सरकार के ही अन्तर्गत हैं।

11. अप्रार्थीकरण की तरफ से एक निवेदन यह किया गया था कि दोनों श्रमिकगण मार्च 1984 से कार्यरत नहीं हैं इसलिए उन्हें पिछला बकाया वेतन नहीं दिलाया जाए। अपने कथनों के समर्थन में 1978 लैब. आई. सी. 179 के न्याय दृष्टान्त का सहारा लिया। उक्त विवाद के दृश्य विवेचनाधीन विवाद के तथ्यों और परिस्थितियों से बिल्कुल

भिन्न है उक्त केस में तो 1971 से 1977 तक उच्चतम न्यायालय में ही विमर्श हुआ था जिस अधि का उक्त विशेष परिस्थितियों में पूरा वेतन नहीं दिलाया गया था। स्थानाधीन विवाद में अप्रार्थीगण यह साबित नहीं कर पाये हैं कि प्रार्थी संघ की वजह से या इन श्रमिकों की वजह से वहां से समझौता दार्ता के दौरान या इस न्यायालय में विवाद विनिर्भित हुआ है। यह उल्लेखनीय है कि मार्च 1984 में इन श्रमिकों को कार्यमुक्त किया गया था और तुरंत पश्चात उन्होंने समझौता दार्ता प्रारम्भ कर दी थी जिस बाबत फेल्योर रिपोर्ट दिनांक 31-10-85 का उल्लेख किया जा सकता है। इस न्यायालय में भी प्रार्थी संघ अथवा श्रमिकगण की वजह से विवाद विनिर्भित नहीं हुआ बल्कि अनेकों बार विपक्षीगण को ही हर्ज पर तारीख दी गई है। अतः इन परिस्थितियों में भी यह दोनों श्रमिकगण सेवामुक्त अधि के पूरे वेतन का अधिकारी हैं।

12. तथ्यों और विधि के उपरोक्त समस्त कारणों से इस निर्देश का अधिनियम निम्न प्रकार से किया जाता है ;

"श्रीमती केसूडी एवं श्रीमती नारायणी की दिनांक 13-3-84 एवं 18-2-84 भ्रमण से सेवाएं समाप्त करने की कार्यवाई न्यायोचित एवं वैध नहीं है और इन दोनों श्रमिकों को उक्त दिनांक से ही सेवा में नियोजित घोषित किया जाता है तथा इन्हें इसके पद पर समस्त वेतन व अन्य सभी लाभ भी उक्त दिनांक से ही दिये जाते हैं। इनकी सेवा की निरंतरता कायम रखी जाती है दोनों अप्रार्थीगण का संपुक्त उत्तरदायित्व भी घोषित किया जाता है। भ्रमर अप्रार्थीगण अंदर तोग माह उक्त बकाया गति श्रमिकगण को भ्रमर श्रमिकगण को यदा नहीं करेंगे तो 12 प्रतिशत प्रति वर्ष की दर से ब्याज भी देना पड़ेगा।"

13. उक्त आशय का अवाई पारित किया जाता है जो केन्द्र सरकार की प्रकाशनार्थ अन्तर्गत जारी 17(1) अधिनियम सेवा जाने

जगत सिंह, पीठामोन अधिकारी

[सं. एल-26011/22/85 डी. -III (बी)]

नई दिल्ली, 3 जनवरी, 1992

का. धा. 301--औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टर आफ परसोनल इण्डियन एयरलाइन्स नई दिल्ली के प्रबन्ध के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचवट की प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-1992 को प्राप्त हुआ था

New Delhi, the 3rd January, 1992

S.O. 301.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Director of Personnel, Indian Airlines, New Delhi and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण जयपुर।

केस नं. सी. आई. टी. 74/90

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या एल 11012/16/90 आई. भार. विविधा वि. 10.90

दिलावर सिंह पुत्र श्री राजेसिंह नेगी, विद्युत नगर, अजमेर रोड, जयपुर।

बनाम

डायरेक्टर ग्रूप, परसोनल, इण्डियन एयरलाइन्स,
नई दिल्ली।

उपस्थिति

श्रमिक पक्ष की ओर से श्री कानसिंह मधु श्रमिक के 1
नियोजक पक्ष की ओर से श्री बी. एल. नन्दा
दिनांक अग्राह 10-7-91

अग्रार्थ

श्री कानसिंह राठौर मधु श्रमिक श्री दिलावर सिंह खुद उपस्थित हैं तथा श्री बी. एल. नन्दा मिनीयोर डिप्टो मैनेजर परसोनल सर्विसिंग देहली उपस्थित हैं। पक्षकारान के प्रतिनिधियों ने दिनांक 31-5-91 को इस कोर्ट के समक्ष एक बाह्यी समझौता पेश किया। श्रमिक श्री दिलावर सिंह की स्थाई नियुक्ति इन्जिनियरिंग हूल्पर के पद पर ग्रेड 1080 से 1360 की बेतना श्रृंखला में दिनांक 10-7-91 से नियुक्ति पत्र जारी कर देंगे श्रमिक की सेवा कृत से दिनांक 9-7-91 तक कोई सेवन वेज नहीं होगा बाह्यी समझौता हों जाने से दोनों पक्षों के बीच अब कोई विचार गेष नहीं रहा। बाह्यी समझौते के अन्तर्गत पर अग्रार्थ पारित किया जाता है बाह्यी समझौता अग्रार्थ का अंग रहेगा। अग्रार्थ केन्द्रीय सरकार की प्रकाशनार्थ भेजा जावे।

जगत सिंह, न्यायाधीश

[सं. एन.-11012/16/90- आई आर (अग्रार्थ)]

क. आ. --302-- औद्योगिक विवाद अधिनियम 1947 (1947 का 24) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रवक्ता खेतड़ी कापर काम्प्लैक्स खेतड़ी नगर, राजस्थान के प्रबन्धक ने मध्यम नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-1992 को प्राप्त हुआ था।

S.O. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Manager, Khetri Copper Complex, Khatra Nagar, Rajasthan and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायधिकरण जयपुर

फैस नं. सी. टी. आई. 50/88

रेफरेंस: भारत सरकार श्रम मंत्रालय, नई दिल्ली का आदेश दिनांक 22-7-88 क्रमांक एन/4302/9-88 जो III श्री फतह सिंह पत्र श्री बिन्जराम निवामी, झालावाला बुना नेशनल रोड, सिधवा, जिला (सुसुतू राजस्थान) प्राथी

बनाम

प्रबन्धक, खेतड़ी कापर काम्प्लैक्स खेतड़ी नगर राजस्थान
— अप्राथी

उपस्थित:

प्राथी की ओर से श्री अर्जुन सिंह
अप्राथी की ओर से श्री मनोज शर्मा
दिनांक अग्रार्थ 10 नवम्बर 1991

प्रवाद

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा निम्न विवाद उपरोक्त अधिसूचना द्वारा अधिविनिर्णयार्थ अन्तर्गत औद्योगिक विवाद अधिनियम 1947 की धारा 10(11) (डी) के अन्तर्गत इस न्यायाधिकरण को प्रेषित किया गया है:

“क्या खेतड़ी कापर काम्प्लैक्स, खेतड़ी नगर के प्रबंधक को इंग्लिश सहायक वर्ग-1 श्री फतह सिंह को 21-7-84 से सेवा से बर्खास्त करने की कार्यवाही न्यायोचित है। यदि नहीं तो यह कर्मकार किस अनुसूच का हकसार है।”

2. प्राथी श्री फतह सिंह जिससे तत्परवान प्राथी श्रमिक संबोधित किया गया है ने जरिये क्लेम प्रकट किया कि उसको नियुक्ति विपक्षी के यहाँ 1-3-67 को इंग्लिश असिस्टेंट ग्रेड-II के पद पर हुई थी। 1972 में उसे इंग्लिश असिस्टेंट ग्रेड I बना दिया था और उसने हमेशा पूरी मेहनत लगाने ईमानदारी से काम किया है। श्रमिक कहता है कि 25-1-84 को दुर्घटनाग्रस्त होने के कारण उसके पुत्र की अस्पताल में भर्ती कर उस समय के ड्यूटी पर थे सूचना मिलते ही वे अगले फिट इंचार्ज सी डी. ई. श्री बी. सी. खोसला से छुट्टी मांगने गया उस समय श्री एस. के. सरकार जन्मल फॉर्मेट भी श्री खोसला के पास थे जिन्होंने बिना किसी कारण के अग्रार्थ व्यवहार कानूनीक किया और मनमाने तौर पर अवशर्कों का प्रयोग करते रहे जबकि प्राथी श्री खोसला शिफ्ट इंचार्ज से छुट्टी को प्राथीता करते रहे और बाद में तुरंत अस्पताल चले गये। श्रमिक कहता है कि वह पुत्र के घायल होने से बहुत परेशान हो गया था और उसके इलाज में ही व्यस्त रहा तथा श्री एस. के. सरकार के दुष्प्रवृत्ति को कोई शिकायत कर पाता उसके पूर्व ही श्री सरकार की झूठी शिकायत पर उनके संबंधी श्री बी. सी. सरकार उपमहाप्रबन्धक (खान) द्वारा 25-1-84 को प्राथी के विरुद्ध एक आरोप पत्र जारी कर दिया गया जो 8-2-84 को प्राप्त हुआ श्रमिक कहता है आरोप पत्र में लगाये गये आरोप पूर्णतः गलत मनगढ़न्त व बेबुनियाब थे जो श्री सरकार द्वारा स्वयं को बचाने के लिए झूठ प्रकट कर था। इस प्रकार की घटना न तो हुई और न ही प्राथी इस प्रकार की मारपीट कर सकता था। श्रमिक कहता है पुत्र की दुर्घटना से उसकी मन स्थिति ठीक नहीं थी, उसकी किम्मत भी खराब थी कि विपक्षी के अधिकारियों द्वारा झूठे आरोपों में बह जान में फँस गया और आरोप पत्र के एक पूर्ण लिखित उत्तर पर उसके हस्ताक्षर करवा लिये उसे जांच कार्यवाही में भी पूर्ण रूप से भुलावे में रखा गया कि सरकारी कार्यवाही महज खानापूर्ति की जा रही है। तथा उसके विरुद्ध कोई कार्यवाही नहीं की जायेगी। श्रमिक के अनुसार सम्पूर्ण जांच कार्यवाही महज खानापूर्ति ही की गई है। श्री बी. सी. खोसला, मुख्य गवाह बयान नहीं लिये गये। इतनी गंभीर घटना की न तो पुलिस में रिपोर्ट कराई गई और न श्री सरकार का डाक्टरों मुआयना कराया गया था प्राथी को अपने बचाव का पूरा मौका नहीं दिया गया। मांगने पर भी जांच कार्यवाही व बयानों की नकलें नहीं दी गई और बचाव प्रतिनिधि लाने का भी मौका नहीं दिया गया। इसलिए नियोजक द्वारा कराई गई धरेलू जांच पूर्णतः अनुचित और कानूनी बन्, नियतीपूर्ण एवं टिकटीमार्डेशन की कार्यवाही है। श्रमिक यह भी कहता है कि हालांकि जांच में सी गई साक्ष्य में उस पर कोई आरोप मिल्द नहीं होता है फिर भी उक्त जांच में दिये गये दण्ड पूर्णतः अनुचित एवं अत्याधिक है तथा वह अपमानसिक, शारीरिक एवं आर्थिक परेशानियों से पूर्णतः दूट चुका है। श्रमिक का कहना है कि सेवा भुक्ति आदेश अग्रार्थ घोषित किया जावे और उसे पिछला समस्त वेतन व सेवा सुविधाओं का लाभ दिलवाया जावे।

3. अप्राथी नियोजक ने जरिये प्रत्येक क्लेम के उपरोक्त कथनों को अस्वीकार किया है और कहा है कि धरेलू जांच में प्राथी द्वारा भाग लिया गया था। लगाये गये आरोपों का कहानी मनगढ़न्त नहीं है श्रमिक को न कोई आश्वासन दिया गया और न ही किसी जान में कमाया गया, उसे किसी भुलावे में भी नहीं रखा गया। जांच कार्यवाही कागजी

संज्ञानापूर्ति नहीं थी। श्री सरकार का डाक्टरी मुआयना भी हुआ था धरेलू जाच प्राकृतिक न्याय के सिद्धान्तों के अनुसार की गई थी। श्रमिक को सुरक्षा व बयान का पूरा प्रयत्न दिया गया था। उसने विभागीय साक्षियों से जिरह की थी और प्रति रक्षा में स्वयं का तथा एक साक्षी का परीक्षण कराया था। श्रमिक को बचाव प्रतिनिधि की भी अनुमति दी गई थी जिसके एक गवाह से जिरह भी की थी, तत्पश्चात् श्रमिक ने जांच प्रतिनिधि की सहायता लेना अस्वीकार कर दिया और स्वयं ने ही अन्य साक्षियों से प्रति परीक्षा की है। जांच रिपोर्ट में की तथा गवाहों के बयानों की प्रतियां भी श्रमिक को दी गई थी। नियोजक का कहना है जाच के दौरान की गई माध्य में आरोप भली भांति मान्य थे जिस पर दिया गया वण्ड भी अनुचित एवं अत्यधिक नहीं है।

4. दिनांक 6-2-90 की आदेशिका के अनुसार श्रमिक प्रतिनिधि ने जाच को प्रॉपर एवं फेयर होनी स्वीकार किया था और तत्कालीन योग्य अधिकारी ने नियोजक द्वारा कराई गई धरेलू जाच प्रॉपर एवं फेयर मानी थी। मेरे समक्ष भी श्रमिक प्रतिनिधि ने जाच को अनफेयर होने का बान्त कोई तर्क प्रस्तुत नहीं किया तथा यह स्वीकार किया कि जाच प्राकृतिक न्याय के सिद्धान्तों के अनुरूप हुई है। जाच पत्रावली के निरीक्षण से भी यह प्रकट होता है कि विभागीय साक्षियों के परीक्षण श्रमिक की उपस्थिति में हुए हैं जिनसे श्रमिक ने प्रति परीक्षा भी की है और वकालत में स्वयं के अनायास श्री किशानचंद साक्षी का भी परीक्षण कराया है। श्रमिक की प्रार्थना पर श्री बनवारी लाल भट्ट को उसकी सुरक्षा के लिए प्रतिनिधि नियुक्त किया गया था जिसने एम. डब्ल्यू-1 श्री के. आर. मंगोला से जिरह भी की थी तत्पश्चात् श्रमिक ने बचाव प्रतिनिधि को सेवाएं नहीं ली और स्वयं ने प्रति परीक्षा की है। इस बाबत श्रमिक की 27-3-84 की स्वयं की लिखी हुई अर्जी जांच पत्रावली पर उपलब्ध है। अतः उपरोक्त समस्त कारणों से मेरी राय में भी नियोजक द्वारा कराई गई धरेलू जाच प्राकृतिक न्याय सिद्धान्तों के अनुरूप है।

5. जांच तक जाच में ली गई साक्ष्य से आरोप सिद्ध होने का प्रश्न है, श्री एस. के. सरकार ने अपने बयानों द्वारा आरोप का मान्य किया है कि 25-1-84 को शाम के करीब 4.00 बजे जब वह इलिया हजीनियर श्री खोसला के कमरे में था, श्री फतहसिंह इलिया अमिस्टेट ग्रेड-1 टिकट नं. 15007 धार्य और अन्नद एवं अन्नील गालियां देना शुरू कर दिया, जब श्री खोसला ने श्रमिक को शांत होकर कुर्सी पर बैठने को कहा तो यह कुछ समय बैठे और तत्काल उठकर श्री सरकार पर पीछे से मुक्कों से मारते हुए हमला शुरू कर दिया। इस पर वहां उपस्थित लोगों ने श्रमिक को पकड़कर बाहर निकाल दिया किंतु फिर भी श्रमिक अपने हाथ में लोहे का सरिया लिये हुए अंदर झपटकर आये और सरकार को मारना शुरू कर दिया। इस पर उसे फिर बाहर ले जाया गया तथा कुछ देर बात जब श्री सरकार पानी पीने बाहर निकले तो श्रमिक ने अश्वय भाषा में गालियां देते हुए श्री सरकार पर लात व मुक्कों तथा सेफटी बेल्ट से मारना शुरू कर दिया जिससे श्री सरकार के के शरीर पर चोटें आईं।

6. उपरोक्त आरोप श्री एस. के. सरकार ने अपने कथनों द्वारा साबित किया है जिससे विस्तारपूर्वक प्रति परीक्षा भी की गई है। परंतु श्री सरकार ने प्रति परीक्षा में पूछे गये किसी भी प्रश्न को टालने का प्रयास नहीं किया और ना ही उसके कथनों में ऐसा कोई विरोधाभास है जिससे श्री सरकार की विश्वसनीयता पर प्रतिकूल प्रभाव पड़ता हो प्रति परीक्षा में ऐसे सुझावात्मक प्रश्न भी नहीं किये गये जिससे श्री सरकार का श्रमिक के विरुद्ध मिथ्या कथन करने का कोई हित या हेतु प्रकट होता हो। श्री सरकार के कथनों की तुष्टि उनके द्वारा उसी रोज कराये गये डाक्टरी मुआयने से भी होती है तो भी डा वेद प्रकाश द्वारा साबित किया गया है। यह सही है कि श्री खोसला मुख्य गवाह का पर्यक्षण नहीं कराया गया परंतु श्री बी. सी. खोसला के बयान नहीं होने से श्री सरकार के कथनों की विश्वसनीयता पर कोई प्रतिकूल प्रभाव नहीं पड़ता। श्री सरकार के कथनों की पुष्टि श्री क. आर. मंगोला, श्री जी. एस. मुल्तानी, श्री जोगेन्द्र सिंह के अलावा डा. वेद प्रकाश के कथनों

से भी होती है और इजुरी रिपोर्ट में भी होती है। हममें से किसी भी साक्षी की किसी भी प्रकार की बेमनम्यता या मन मुटाव श्रमिक के प्रति नहीं था। इनका श्रमिक के विरुद्ध मिथ्या कथन करने का कोई हित या हेतु या औचित्य भी नहीं था और इस प्रकार ये सभी साक्षी निष्पक्ष कोर्ट के सत्यवादी साक्षी पाये जाते हैं।

7. यह उल्लेखनीय है कि 25-1-84 के आरोप पत्र का श्रमिक ने 13-2-84 को उत्तर प्रस्तुत किया था जिसमें भी अपने हतना हा कहा है कि वह मानसिक, शारीरिक और आर्थिक रूप से बहुत परेशान था। उसका पुत्र लोटप्रस्त होकर निकल मानस में मर्ता था, उसका आर्थिक स्थिति भी बहुत खराब था, उ की एक में भी मर गई थी और उसकी पुत्री भी विवाह योग्य थी तथा नौकरी के अलावा उसके पास परिवार के खालत पालन हेतु और कोई साधन नहीं था, इसलिए वह 25-1-84 को का गई कॉपीसाहो के लिए स्वयं भा दुःखाय धाम प्रस्थ था। श्रमिक ने जांच के दौरान प्रति रक्षा में जो बयान दिये हैं उनमें भा कहा है कि उसका बच्चा बहुत बंमार था और वह छुट्टी लेने खोसला साहब के आफिस में गया था, सरकार साहब वहां बैठे थे, उन्होंने मुझे बाहर निकाल दिया, मुझे धक्का मारा और बाहर आकर गया निकाला, पुनः धक्का मारा जिससे मैं फिर गया। श्रमिक ने उक्त कथनों में सत्यता का आशय नहीं होता क्योंकि 17-4-84 को श्रमिक का सर्व प्रथम उपरोक्त कथन सामने आया है, और वास्तव में इन कथनों में सत्यता होती तो ऐसा आरोप के प्रत्युत्तर में कथन क्यों नहीं किया गया और श्री सरकार से इस विषय का प्रति परीक्षा क्या नहीं का गई। अपने बयान में भी श्रमिक यह तो स्वीकार करता है कि 25-1-84 को शाम के करीब 4 बजे श्री खोसला के आफिस में श्री सरकार तीसरे बेडरूम से उसका तू-तू-तू मैं हुई था। श्रमिक यह भा स्वीकार करता है कि वह बहुत दुःखी और परेशान था। वह अपनी लड़की का शादी अपनी श्रेय बर्बाद हुई जिन्दगी के लिए भा परेशान था और उसका पैसा भी मर गई था। अपने बयान में भी श्रमिक कहता है कि उनका दिमाग डोक नहीं था और अगर उसका पलना मानने हो तो उसे हाँफ कर दो। उस को नौकरी का हा एक हारा है। उपरोक्त समस्त माध्य में मेरा राय में श्रमिक पर लगाया गया आरोप सिद्ध हो जाता है।

8. मैंने पक्षकारों के प्रतिनिधियों को उक्त आरोप पर दिये गये वण्ड को मात्रा पर भा विस्तारपूर्वक सुना। श्री परिहार, योग्य प्रतिनिधि श्रमिक का कथन यह था कि श्रमिक मानसिक रूप से विचलित था और स्या-कथित दुराचरण साबित होने पर भा उसे मेरा मुक्ति का कठोरतम दण्ड नहीं दिया जाना चाहिये। श्री परिहार के अनुसार श्रमिक ने आरोप के प्रत्युत्तर में भी असा मान ला था और तत्पश्चात् जांच के दौरान भा अपने अपने कृत्य के प्रति मुक्ति माग ला था तथा सफाई में बयान भी क्षमा मांगी है। श्रमिक के पास नौकरी के अलावा और कोई साधन भा नहीं है इसलिए सेवा मुक्ति का कठोरतम दण्ड नहीं दिया जावे। श्री परिहार के अनुसार उक्त दुराचरण के अलावा अन्य कोई दुराचरण श्रमिक द्वारा करना अभिलेख पर साबित नहीं किया गया है। मेरा राय में भी मामले को परिस्थितियों को देखते हुए विशेषकर इन परिस्थितियों में कि 25-1-84 को शाम के लिये में श्रमिक इष्टता पर आया था और उसे इष्टता के दौरान ही सूचना मिली था कि उसका पुत्र दुर्घटनाग्रस्त होकर अस्पताल में मर्ता है इसलिए वह पुत्र को संभावने के लिए हा छुट्टी मांगने के लिए श्री खोसला के आफिस में गया था जहाँ पर यह घटना हुई है और प्रारम्भिक स्तर में ही श्रमिक अपने कृत्य के लिए पश्चात्ताप करता है और मुआयना मांगता रहा है। सेवा मुक्ति का दण्ड देने से श्रमिक के परिवार के प्रति अन्याय होगा क्योंकि उसका पुत्र विवाह योग्य है और नौकरी के अलावा और कोई साधन उसके पा नहीं है। अतः उपरोक्त परिस्थितियों को मध्य नजर रखते हुए तथा 1987 वेब. आई. सी. 685, 1988। एन. एन. एन. 513 एवं 1983। एन. एन. एन. 810 आदि न्याय दण्डान्तों के अनुसार मेरा रायदुरा-चरण के अनुपात में हा देने का विधान है और इस दुराचरण के लिए दिया गया सेवा मुक्ति का दण्ड अनुसूचित एवं प्रभावित है।

इस लिए अग्रस्त किया जाता है और श्रमिक को सेवा में पुनः बहाल करने हुए उक्त का चार आंशिक तीन बुद्धिपूर्व संध्या प्रस्तावों में राकने का दण्ड दिया जाता है तथा सेवा श्रमिक के दिनांक में सेवा में पुन. लेने का अधिकार का बंधन भा श्रमिक को नष्ट दिनांक दिया जाता है परन्तु उक्त अधिनियम में श्रमिक को आदेशों और नोशनल वैरिफिकेट दिया आवेगा।

9. उक्त आदेश का अर्थात् पारित किया जाता है जो केन्द्र सरकार को प्रकाशनार्थ अस्तगत धारा 17 (1) औद्योगिक विवाद अधिनियम 1947 के सेवा जारी है।

जनन सिंह, पाठानेन अधिकारी
[सं. एल.-43012/9/88/डी. III (बो)]

का. आ. 303.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खेतड़ा कापर काम्प्लेक्स झुनझुन के प्रमुख के संबंध नियोजकों और उनके कार्य-कारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करना है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 303.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Khetri Copper Complex, Jhounjhanon and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक विवाद अधिनियम, जयपुर

केन न नो. आई टा. 37/89

केन्द्र सरकार श्रम मंत्रालय को अधिलेखित तथा

एल. 43011/7/88 डी-3 (बो) दि. 7-3-89

खेतड़ा कापर मजदूर संघ, खेतड़ा कापर

वर्तमान

खेतड़ा कापर काम्प्लेक्स, झुनझुन।

उपस्थिति

श्रमिक संघ की ओर से

कोई हाजिर नहीं

निर्वाहक की ओर से:

मनोज कुमार शर्मा

दिनांक अर्थात्:

20-4-91

प्रार्थना

श्री मनोज कुमार शर्मा विपक्ष की ओर से उपस्थित हैं। युनियन की ओर से कोई हाजिर नहीं है। आज युनियन को स्टेटेड आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है और ता ही क्लेम पेश किया है युनियन को दिनांक 3-5-89 से निरन्तर क्लेम पेश करने के लिए अवसर दिया जा रहा है अब समय दिया जाना उचित नहीं है अतः इस प्रकरण में नो डिस्पूट प्रार्थना पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जाये।

जनन सिंह, व्याख्याता

[सं. एल.-43011/7/88-डी III (बो)]

का. आ. 304.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन आयल ब्लेंडिंग लि. कलकत्ता के प्रमुख के संबंध नियोजकों और उनके कार्यकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-92 को प्राप्त हुआ था।

S.O. 304.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Blending Limited, Calcutta and their workmen, which was received by the Central Government on the 2-1-1992.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 149 of 1988

PARTIES:

Employers in relation to the management of Indian Oil Blending Limited, Calcutta.

AND

The workman.

PRESENT:

Mr. Justice Manash Nath Roy, Presiding Officer.

APPEARANCES:

On behalf of Management: Mr. D. Mukhopadhyay, Advocate.

On behalf of Workman: Mr. A. K. Das, Advocate appears subsequently.

STATE: West Bengal.

INDUSTRY: Oil.

AWARD

In terms of the Order of Reference No. L-30012/5/88-D.III(B), dated 26th April, 1988 made under section 10(1)(d) read with section 2A of the Industrial Disputes Act, 1947, the appropriate Government referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Indian Oil Blending Limited, Calcutta in not engaging back their ex-badli/casual workman Shri Deb Sarkar Halder, Village and P. O. Berul-via-Birlapur, P. S. Budge Budge, District South 24 Parganas whose service was allegedly terminated by the management of Indian Oil Blending Limited since 16-4-85, is justified and proper. If not, what relief the workman is entitled to?"

2. After the reference, the parties completed their pleadings and thereafter, today the learned Advocate on behalf of the management has filed a terms of Tripartite Settlement, arrived between the parties.

3. The said settlement related to S/Shri Ashok Chakraborty and Md. Wais, who as will appear from the terms of settlement, has raised their dispute under section 2A of the Act, but ultimately agreed not to pursue the same.

4. The terms of settlement also mentions the case of Shri Deb Sarkar Halder who also sought to raise a dispute under section 2A of the Act.

5. The settlement further indicates that the cases of the first named two employees have disposed of since they have not pursued their cases. The settlement also indicates that the case of Shri Deb Sarkar Halder who was an ex-casual workman has been decided by the management for appointment in permanent employment on the terms as mentioned therein.

6. When the xerox copy of the said tripartite settlement was filed, the learned Advocate for the said Shri Deb Sarkar Halder was not present but thereafter he appeared and submitted that the management should have filed the tripartite settlement alongwith an application which was to be countersigned by him. I feel that since the settlement has been arrived at a tripartite level no such application would be necessary.

7. But the learned Advocate for Shri Halder insisted on such an application and has ultimately filed an application today stating that even if a no dispute award is made that must also refer to the case of Shri Halder, since he raised the dispute under section 2A of the Act and was intending to pursue the same, the Union who has signed the settlement had no authority to sign or act on his behalf. Let the application filed by the learned Advocate for said Shri Halder be kept with the record.

8. In view of the fact of entering into the tripartite settlement as mentioned above and after considering the submissions of the learned Advocate for said Shri Halder, I think no further Award is required to be made and as such, I make a No Dispute Award because of and in terms of the said tripartite settlement.

Dated, Calcutta,

The 11th December, 1991.

MANASH NATH ROY, Presiding Officer

[No. L-30012/5/88-D.III(B)]

B. M. DAVID, Desk Officer

नई दिल्ली, 2 जनवरी, 1992

का. भा. 305:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ़ बीकानेर एण्ड जयपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

New Delhi the 2nd January, 1992

S.O. 305.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of Bikaner and Jaipur and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 71/84

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या

एल.-12012/35/84-डी. II (ए) दि. 25-7-84

सत्यनारायण गुप्ता भार्गव राजस्थान बैंक एम्प्लॉईज यूनियन, जयपुर।

बनाम

जसराम मैनेजर, स्टेट बैंक आफ़ बीकानेर एण्ड जयपुर।

उपस्थिति :

यूनियन की ओर से : श्री भूशोक परिहार
नियोजक की ओर से : श्री एस. के. जैन
दिनांक प्रवाह : 20-7-91

प्रवाह

श्री भूशोक कुमार परिहार यूनियन की ओर से तथा श्री एस. के. जैन विपक्षी की ओर से उपस्थित हैं। श्री परिहार इस प्रकरण में अपने कार्यवाही नहीं करना चाहते हैं अतः इस प्रकरण में नो डिस्पुट प्रवाह पारित किया जाता है जो केन्द्र सरकार को अंतर्गत धारा 17(1) अधिनियम भेजा जाये।

जगत सिंह, केन्द्रीय औद्योगिक न्यायाधिकरण

[सं. एल.-12012/35/84-डी. II (ए)]

का. भा. 306:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेवाड़ प्रांचलिक ग्रामीण बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों

के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 306.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mewar Aanchalik Gramin Bank and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 8/91

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या :

एल. 12011/37/90 आई. आर. (बी-3) दि. 29-1-91

ग्रामीण बैंक एम्प्लॉईज यूनियन, जयपुर।

बनाम

मेवाड़ प्रांचलिक ग्रामीण बैंक, उदयपुर

उपस्थिति :

यूनियन की ओर से : कोई हाजिर नहीं
नियोजक की ओर से : श्री मानसिंह गुप्ता
दिनांक प्रवाह : 29-6-91

प्रवाह

श्री मानसिंह गुप्ता विपक्षी की ओर से उपस्थित हैं। यूनियन की ओर से कोई हाजिर नहीं है। आज यूनियन को क्लेम पेश करना है किन्तु कोई हाजिर नहीं है और ना ही क्लेम पेश किया। अतः इस प्रकरण में नो डिस्पुट प्रवाह पारित किया जाता है जो केन्द्र सरकार को प्रकाशित भेजा जाये।

जगत सिंह, न्यायाधीश

[सं. एल.-12011/37/90-आई. आर. (बी-3)]

का. भा. 307:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बूंदी चित्तौड़-गढ़ क्षेत्रीय ग्रामीण बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 307.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bundi Chittorparh Kshetriya Gramin Bank and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी. आई. टी. 36/1988

रैकरैन्स : भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल.-12012/94/87-डी-4 (ए) दिनांक 23-5-1988

श्री गगन बिहारी पारोक, पुत्र श्री द्वारिका प्रसाद पारोक, निवासी सबाई माधोपुर।

प्रार्थी

बनाम

अध्यक्ष, बूंदी चित्तौड़ क्षेत्रीय, ग्रामीण बैंक, बूंदी।

४-अप्रार्थी

उपस्थित :

प्रार्थी का ओर से : श्री आर. सी. जैन
अप्रार्थी की ओर से : श्री आर. के. काठा
दिनांक अर्वाह : 22-11-91

अर्वाह

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा उपरोक्त आदेश के तहत निम्न विवाद इस म्यादाधिकरण को वास्तु अधिनियम ओखोगि विवाद अधिनियम, 1947 की धारा 10 (1) (घ) के अन्तर्गत प्रेषित किया है :

"क्या बूंदी विस्तोड़गढ़ औद्योगिक श्रमिकों के चेयरमैन की श्री गगन बिहारी पारीक, क्षेत्र प्रेक्षिक की सेवाओं को 16-7-87 से समाप्त करने की कार्यवाही म्यादोचित है। यदि नहीं तो कर्मकार किम अनुतोष का हकदार है।"

प्रार्थी श्री गगन बिहारी पारीक, जिसे तत्पश्चात् श्रमिक संबोधित किया गया है ने जरिये क्लेम प्रकट किया कि अप्रार्थी द्वारा प्रतियोगी परीक्षा में सफल होने के उपरान्त उसको नियुक्ति फील्ड सुपरवाइजर के पद पर दिनांक 22-5-95 के आदेश डब्ल्यू-1 द्वारा की गई थी। उक्त पद की अनुपालना में श्रमिक ने 6-6-85 से सेवा प्रारंभ की थी और 2 वर्ष की परीक्षा काल के लिए उसको नियुक्ति दी गई थी। श्रमिक कहता है अप्रार्थी बैंक के चेयरमैन डॉ. पी. पी. शर्मा उसके प्रति दुर्भावना रखते थे इसलिए 5-6-87 को 2 वर्ष का परीक्षा काल मंजूर करने पर भी फील्ड सुपरवाइजर के पद पर उसे स्थाई नहीं किया गया बल्कि तत्पश्चात् भी उससे कार्य लिया गया, जिससे यह निष्कर्ष निकलता है कि प्रार्थी स्वतः ही फील्ड सुपरवाइजर के पद पर स्थाई हो गया था। श्रमिक कहता है 18-6-87 को विपक्षी बैंक के चेयरमैन ने एक आदेश जारी किया जिसके द्वारा उसका परीक्षा काल 6 माह की अवधि के लिए 18-6-87 से बढ़ा दिया गया अर्थात् श्रमिक की परीक्षा काल दिनांक 17-12-87 तक बढ़ा दिया गया। परंतु फिर भी श्रमिक की सेवाएं 16-7-87 से अप्रार्थी बैंक के चेयरमैन द्वारा अनधिकृत रूप से समाप्त कर दी गई जिसके साथ एक माह के बतन 1140 रुपये की पेन्शन भी भेजी गई। श्रमिक ने 16-7-87 के आदेश के विरुद्ध 13-8-87 को अपील प्रस्तुत की जो भी बिना उचित कारण एवं मुलाहत् के खारिज कर दी गई। श्रमिक का कहना है उसने 25 माह की लगातार सेवा की थी तथा 16-7-87 को समाप्त हुए एक कलेंडर वर्ष में 240 दिवस से अधिक सेवा पूरी कर लां थी फिर भी धारा 25-एफ अधिनियम के प्रावधानों की पालना किए बिना ही उसकी सेवा मुक्ति की गई है जो छंटनी की परिभाषा में आती है और स्वतः ही अनुचित एवं अवैध हो गई है। श्रमिक यह भी कहता है कि जब उसका परीक्षा काल 17-12-87 तक बढ़ा दिया गया था तो 16-7-87 से सेवा मुक्त करना भी उचित नहीं था। श्रमिक कहता है उससे कठिण व्यक्ति सर्वश्री मोहन लाल मीणा, गिरीश शर्मा, राजेश कुमार जैन, अरुण कुमार शर्मा, हरी नागयण गुप्ता, गोपाल लाल गुप्ता व राम निवास मीणा सेवा मुक्ति के रोज कार्यरत थे इसलिए नियोजक ने धारा 25-जी अधिनियम के प्रावधानों की भी अवहेलना की है। श्रमिक का प्रार्थना है कि सेवा मुक्ति आदेश अर्वास्त किया जावे और उसे फील्ड सुपरवाइजर के पद पर मानते हुए पिछले बतन सहित अन्य सभी लाभ विलाये जावे।

3. अप्रार्थी नियोजक ने जरिये प्रत्युत्तर क्लेम के कथनों को अस्वीकार किया है और फरमा है कि अप्रार्थी बैंक के चेयरमैन डॉ. पी. पी. शर्मा की श्रमिक के प्रति कोई दुर्भावना नहीं थी। विपक्षी श्रमिक की सेवा से संतुष्ट नहीं थे। परीक्षा काल में श्रमिक 12 दिवस तक अनुपस्थित रहा था अतः उक्त अवधि का रिबेट देने के उपरान्त 18-6-87 से उसे 6 माह के बढ़े हुए परीक्षा काल पर रखा गया था। नियोजक के अनुसार परीक्षा अवधि समाप्त होने पर कोई भी श्रमिक स्वतः ही

पद पर स्थाई नहीं हो जाता है तब तक कि उक्त दिवस के सेवा नियमों में या स्थाई आदेशों में कोई प्रावधान न हो। नियुक्ति पत्र के अनुसार ही श्रमिक की सेवाएं परीक्षा काल में भी बिना कारण बताये समाप्त करने का शर्त थी और श्रमिक ने परीक्षा काल में संवादप्रद सेवा नहीं की थी इसलिए ही उसका परीक्षा काल 6 माह के लिए बढ़ाया गया था जिसमें भी श्रमिक ने अपनी कार्य पद्धति में सुधार नहीं किया फलस्वरूप 16-7-87 से उसे सेवा मुक्त कर दिया गया तथा नियुक्ति पत्र के अनुसार एक माह के बतन की राशि 1140 रुपये की पेन्शन भी श्रमिक को दी गई। श्रमिक द्वारा दायर की गई अपील भी पूर्ण विचार विमर्श करने के उपरान्त गुणावगुण पर खारिज की गई थी। नियोजक के अनुसार अप्रार्थी संस्थान धारा 2 (जे) के अन्तर्गत उद्योग की परिभाषा में नहीं आता है और श्रमिक की धारा 2 (एस) के अनुसार कर्मकार की परिभाषा में नहीं आता इसलिए विवाद अधिनियम 1947 के प्रावधान लागू नहीं होने और ना ही धारा 25-एफ व 25 जी लागू होना है।

4. अपने कथनों में श्रमिक श्री गगन बिहारी पारीक ने स्वयं का शपथ पत्र प्रस्तुत कर स्थापित कराया जिससे नियोजक प्रतिनिधि ने जिरह की। प्राथमिक साक्ष्य में डब्ल्यू-1 लगायत डब्ल्यू-10 फोटो प्रतियां पेश की गईं। इसके विपरीत नियोजक की तरफ से श्री आर. ए. सिद्धानिया ने शपथ पत्र पेश किया जिससे श्रमिक प्रतिनिधि ने जिरह की है। प्राथमिक साक्ष्य में एम-1 लगायत एम-17 फोटो प्रतियां पेश की गईं। तत्पश्चात् मैंने पत्रावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को ध्यानपूर्वक सुना।

5. नियोजक के प्रत्युत्तर की प्रथम आपत्ति यह है कि उनका संस्थान धारा 2 (जे) के अन्तर्गत उद्योग की परिभाषा में नहीं आता और नहीं श्रमिक धारा 2 (एस) के तहत कर्मकार की परिभाषा में आता है। क्लेम के प्रत्युत्तर में नियोजक ने यह विस्तृत वर्णन नहीं किया कि किस प्रकार उनका संस्थान उद्योग की परिभाषा में नहीं आता है और किस प्रकार श्रमिक कर्मकार की परिभाषा में नहीं आता। अर्थात् क्लेम के प्रत्युत्तर में यह दर्ज नहीं है कि श्रमिक को प्रबन्धकीय एवं प्रशासकीय कोई अधिकार दिये गये हों या उसका पद या उसकी सेवाएं अधिकारीकरण की श्रेणी में आती हो। निर्विवाद रूप से श्रमिक को फील्ड सुपरवाइजर के पद पर नियुक्त किया गया था। उक्त पद पर ही सेवा मुक्ति तक श्रमिक कार्यरत रहा। नियोजक साक्षी श्री सिद्धानिया ने शपथ पत्र की वरण सं. 9 में दर्ज किया है कि फील्ड सुपरवाइजर का पद आफिस असिस्टेंट की श्रेणी में आता है इसलिए प्रार्थी धारा 2 (एस) की परिभाषा के अन्तर्गत कर्मकार की परिभाषा में नहीं आता। यह उल्लेखनीय है किनी भी व्यक्ति को पद नाम के आधार पर न तो प्रबंधकीय या प्रशासकीय श्रेणी में लाया जा सकता है और न ही कर्मकार की श्रेणी में माना जा सकता है। इसके लिए यह साबित करना होगा कि प्रमुख व्यक्ति को मुख्यतः जो दायित्व सौंपे गये थे वह प्रबंधकीय अथवा प्रशासकीय श्रेणी के थे अथवा नहीं थे। अभिप्राय यह है कि यह एक तथ्यात्मक बिंदु है जो पक्षकारों द्वारा अपने अभ्यावेदनों में ही स्पष्ट करना आवश्यक था और जिसे तत्पश्चात् मौखिक अथवा प्राथमिक साक्ष्य द्वारा साबित भी करना था। नियोजक पर ही यह भार सबूत था कि वह साबित करता कि श्रमिक द्वारा धारित फील्ड सुपरवाइजर का पद प्रबंधकीय अथवा प्रशासकीय श्रेणी में आता था। जिसके अभाव में मात्र पद नाम से ही यह स्वीकार नहीं किया जा सकता कि श्रमिक श्री गगन बिहारी पारीक द्वारा धारित फील्ड सुपरवाइजर का पद प्रशासनिक अथवा प्रबंधकीय श्रेणी का था। इस विषय में ए.आई.आर. 1967 (सुप्रीम कोर्ट), 678, ए.आई.आर. 1971 (सु.कोर्ट), 922 के अलावा 1987 नैब.आई.सी. 1133, 1986 II, एल.एल. ऐन 134 आदि न्याय वृष्टान्तों का भी उल्लेख किया जा सकता है।

6. नियोजक साक्षी श्री सिद्धानिया ने तत्पश्चात् कहा है कि 21-6-86 में बुद्धपुरा ब्रांच पर प्रशिक्षण हेतु श्री पारीक को पदस्थापित किया था जहां पर प्रशिक्षण काल के दौरान मैनेजर के पद पर वह कार्यरत रहा था। तथा एम-16 पत्र पर उसने प्रबंधक की हैसियत से हस्ताक्षर किये

है। एम-10 व एम-15 पत्र भी उसने मैनेजर की हेमियन से लिखे थे। यह उल्लेखनीय है कि एम-10 पत्र भी विपक्षी बैंक के चेयरमैन द्वारा ही श्रमिक को लिखा गया था जिसमें उसे फोल्ड सुपरवाइजर संबंधित किया गया है। इसी प्रकार एम-15 पत्र भी विपक्षी बैंक के अध्यक्ष द्वारा श्रमिक को लिखे गये थे जिनमें भी श्रमिक को क्षेत्र पर्यवेक्षक लिखा गया है। ये तीनों पत्र प्रशिक्षण के दौरान श्रमिक की कार्य क्षमता बाबत ही लिखे गये थे। इन पत्रों से यह निष्कर्ष नहीं निकलता कि श्रमिक को प्रबंधकीय या प्रशासकीय कार्य सौंपे गये हों। नियोजक साक्षी ने अपने पथ पत्र में एम-6 का भी उल्लेख गलत किया है। एम-11 पत्र 19-12-86 का है जो श्रमिक द्वारा अप्रार्थी बैंक के अध्यक्ष को लिखा गया था जिस पर श्रमिक के हस्ताक्षरों के नीचे प्रबंधक भास्व बृधपुरा की मोहर लगी हुई है। इस पत्र से भी यह साबित नहीं होता कि श्रमिक को प्रबंधकीय अथवा प्रशासकीय वास्तव सौंपे गये हों। प्रदर्श-एम3 से बनता हो स्पष्ट होता है कि 21-1-86 को विपक्षी बैंक के अध्यक्ष ने अजीता शाखा के प्रबंधक को लिखा था कि गगन बिहारी पारीक्ष फोल्ड सुपरवाइजर को बुधपुरा शाखा पर आगे की ट्रेनिंग के लिए भेजा जा रहा है जहाँ पर वह मैनेजर का कार्य प्रशिक्षण के दौरान करेगा। तर्कों के लिए यह मान भी लिया जाय कि 21 जनवरी 1986 से 17-7-86 तक इस श्रमिक ने बुधपुरा शाखा में शाखा प्रबंधक का कार्य प्रशिक्षणाधीन किया था तो भी इससे यह निष्कर्ष नहीं निकलता कि श्रमिक को सौंपा गया फोल्ड सुपरवाइजर का पद उसके द्वारा प्रशिक्षणाधीन कुछ अवधि तक प्रबंधक का कार्य करने से यह प्रबंधकीय कार्य या प्रशासकीय श्रेणी में आ जायेगा। उपरोक्त न्याय दृष्टान्तों के अनुसार नियोजक को यह सिद्ध करना था कि प्रार्थी को सौंपे गये कार्य की प्रकृति मुख्यतः प्रबंधकीय व प्रशासकीय थी जिसके अभाव में अगर यदाकदा या इधर-वधक, कभी-कभार श्रमिक ने प्रबंधकीय या प्रशासकीय कार्य कर भी लिया था तो भी उसे प्रबंधक की श्रेणी में नहीं लाया जा सकता। यह उल्लेखनीय है कि प्रति-परीक्षा में श्रमिक ने यह कहा था कि 27-1-86 से 21-5-86 तक उसे बुधपुरा बांच में रखा गया था परंतु बतौर एमिंटंग मैनेजर नहीं रखा गया था बल्कि बतौर ट्रेनी ही रखा गया था। उसने बुधपुरा बांच का चार्ज श्री गहलोत से लिया था और 27-1-86 से 21-5-86 तक बुधपुरा बांच पर कोई मैनेजर नहीं था। मेरी राय में उक्त परिस्थिति से यह निष्कर्ष नहीं निकाला जा सकता कि श्रमिक को सौंपा गया वास्तव प्रशासकीय अथवा प्रबंधकीय श्रेणी का था। नियोजक प्रतिनिधि ने श्रमिक से प्रति परीक्षा में ऐसे सुझावात्मक प्रश्न नहीं किये जिससे श्रमिक द्वारा किये गये कार्यों से यह निष्कर्ष निकला हो कि वे प्रबंधकीय अथवा प्रशासकीय श्रेणी के थे। अतः उपरोक्त समस्त कारणों से नियोजक की यह प्रारंभिक आपत्ति खारिज की जाती है कि प्रार्थी गगन बिहारी धारा 2 (एस) की श्रेणी में नहीं आता। जहाँ तक धारा 2(जे) के अन्तर्गत अप्रार्थी संस्थान का उद्योग की परिभाषा में नहीं आने का प्रश्न है, इस बाबत नियोजक की तरफ से न तो क्लेम के प्रत्युत्तर में विस्तृत वर्णन किया गया है और न ही कोई साक्ष्य पेश की गई है। यहाँ तक कि प्रार्थी गगन बिहारी पारीक्ष से भी इस विषय पर प्रति परीक्षा नहीं की गई। निर्विवाद रूप से अप्रार्थी संस्थान में "मिसैमेटिक एमिटिडिटी" के अनुसार कार्य होता है। और नियोजक अथवा नियोजितों की सहायता से ही कार्य होता है जिसके द्वारा अप्रार्थी संस्थान अपने ग्राहकों की सेवा करते हैं और इस प्रकार बैंगलोर सीवेज कारपोरेशन बनाम रंगया 1978 (2) सु. कोर्ट केसेज 213 के न्याय दृष्टान्त के अनुसार अप्रार्थी संस्थान भी उद्योग की परिभाषा में आता है। इस विषय में ए.आई.आर. 1968 (राजस्थान) 227 के न्याय दृष्टान्त का भी उल्लेख किया जा सकता है। अतएव नियोजक की दोनो प्रारंभिक आपत्तियाँ आधारहीन होने से अस्वीकार की जाती है।

7. जहाँ तक गुणावगुण का प्रश्न है, श्रमिक ने कहा है कि उसने 6-6-85 से 16-7-87 तक लगातार सेवा की है। नियोजक भी अपने क्लेम के प्रत्युत्तर में तथा अपनी साक्ष्य द्वारा उस तथ्यों का स्वीकार करते हैं। इस प्रकार 16-7-87 का समाप्त हुए एक कलैण्डर वर्ष में इस श्रमिक ने 240 दिवस से अधिक सेवा अवधि पूरी कर ली थी परंतु फिर भी उसे सेवा मुक्त करने समय धारा 25-एफ के प्रावधानों का लाभ नहीं

दिया गया है श्रमिक को सेवा मुक्ति परीक्षा काल में ही को गई हो। नियोजक के लिए यह अवैध है कि वह 240 दिवस की सेवा के उपरांत सेवा मुक्ति करने समय धारा 25-एफ के अन्तर्गत श्रमिक को छंटनी का मुआवजा भी देना। मानना उचित है न्यायालय ने कनटिका रोड ट्रांसपोर्ट कारपोरेशन, बैंगलोर बनाम गेय अट्टुल खंडेर 1984 एक एल आर (49) 1989 के न्याय दृष्टान्तों में परीक्षा के दौरान सेवा मुक्ति कर्मचारी द्वारा एक कलैण्डर वर्ष में 240 दिवस की सेवा पूरी करने पर उसे धारा 25-एफ के अन्तर्गत लाभ नहीं देने का कारण सेवा मुक्ति छंटनी में मानते हुए अनुचित एवं अवैध घोषित की था। दिव्यनाथन बनाम के तथ्य और परिस्थितियाँ भी उपर्युक्त न्यायालय के उपरोक्त न्याय दृष्टान्त के तथ्यों व परिस्थितियों के समान हैं। इसलिए उक्त न्याय दृष्टान्त इस विवाद पर अनिवार्यतया लागू होता है और चूंकि नियोजक द्वारा की गई सेवा मुक्ति छंटनी की परिभाषा में आती है और धारा 25-एफ के प्रावधान लागू होते हैं इसलिए 16-7-87 की सेवा मुक्ति आदेश स्वतः ही अनुचित एवं अवैध हो जाता है जिसे अमान्य किया जाता है।

8. श्रमिक ने अपने क्लेम को चरण मंडल 14 (डी) में यह वर्ज किया है कि उसने कनिष्ठ सात फोल्ड सुपरवाइजर सर्वोच्च मोहन लाल मोणा, गिरीश शर्मा, राजेश कुमार जैन, अरुण कुमार शर्मा, हरी नाथयण गुप्ता, गोपाल लाल गुप्ता व राम विनास मोणा सेना में बने हुए हैं और बिना कोई उचित कारण बताए उसे सेवा मुक्त किया गया है इसलिए धारा 25-जी अधिनियम की भी अवहेलना की गई है। क्लेम के प्रत्युत्तर में नियोजक ने चरण सं. 13 (एफ) में दर्ज किया है कि श्रमिक को ही तरह-तथ्य सात व्यक्ति की परिवीक्षा काल में नियुक्त थे और चूंकि श्रमिक का काम परिवीक्षा काल में सनीपजनक नहीं पाया गया इसलिए श्रमिक का उससे बरिष्ठ होता किसी महत्व का नहीं है और इससे श्रमिक को कोई अधिकार नहीं मिलते। अपने शपथ पत्र की चरण संख्या 13 में भी श्रमिक ने क्लेम के कथनों का उल्लेख किया है कि सेवा मुक्ति के समय बरिष्ठता सूची नहीं बनाई गई और उससे कनिष्ठ सर्वोच्च मोहनलाल मोणा, गिरीश शर्मा आदि फोल्ड सुपरवाइजर के पद पर कार्यरत हैं फिर भी न तो श्रमिक से इस विषय में प्रति-परीक्षा की गई और न ही नियोजक साक्षी श्री निवानिया ने अपने शपथ पत्र में कुछ इस विषय में कहा। इन परिस्थितियों में श्रमिक का यह कथन साबित हो जाता है कि सेवा मुक्ति के समय नियोजक द्वारा बरिष्ठता सूची नहीं बनाई गई और न ही उससे कनिष्ठ व्यक्तियों का सेवा मुक्त किया गया और इस प्रकार धारा 25-जी अधिनियम की अवहेलना होना भी साबित है।

9. यह उल्लेखनीय है कि श्रमिक को सेवा मुक्ति 16-7-87 से की गई थी और श्रमिक ने अपने क्लेम में तो यह दर्ज किया है कि अप्रार्थी बैंक के चेयरमैन श्री पी. पी. शर्मा उससे दुर्भावना रखते थे परन्तु उक्त दुर्भावना अभिलेख पर साबित नहीं की गई है। न तो क्लेम में और न ही अपने शपथ पत्र में श्रमिक ने डा. पी. पी. शर्मा का दुर्भावना का विस्तृत वर्णन किया है और न ही नियोजक साक्षी श्री मिशानिया से इस बाबत प्रति परीक्षा की है। स्वयं श्रमिक भी इस विषय में प्रति परीक्षा करने पर इतना ही कहता है कि अपने होने के दो माह बाद उसे डा. पी. पी. शर्मा ने बुलाया और कहा कि आप कर्मों मिलते नहीं हैं। मेरी राय में श्रमिक के उपरोक्त अप्रुप्त कथनों पर विश्वास नहीं किया जा सकता तथा इससे यह निष्कर्ष नहीं निकलता कि श्री पी. पी. शर्मा श्रमिक के प्रति कोई दुर्भावना रखते थे विशेषकर उक्त परिस्थितियों में जब कि डा. पी. पी. शर्मा के कार्यकाल में श्रमिक श्री गगन बिहारी पारीक्ष का चयन हुआ था।

10. अतः तथ्यों और विधि के उपरोक्त समस्त विश्लेषण से इस निर्देश का अधिनियम निम्न प्रकार किया जाता है:—

“श्रमिक श्री गगन बिहारी पारीक्ष, क्षेत्र पर्यवेक्षक की 16-7-87 से सेवा समाप्त करना उचित एवं वैध नहीं है। उसे उक्त पद पर नियोजित घोषित किया जाता है। उसकी सेवा का निरंतरता कायम रखी जाती है तथा उक्त पद का वेतन एवं समस्त लाभ विभाग

जाते हैं। 100 रुपए खर्च मुकदमा भी दिलाया जाता है। अगर नियोजक अंदर तीन माह उस राशि प्रदा नहीं करेगा तो 12 प्रतिशत प्रति वर्ष की दर से ब्याज भी देना पड़ेगा।

10. उक्त आदेश का अर्थ पारित किया जाता है जो केन्द्र सरकार को प्रकाशनाथ अन्तर्गत धारा 17(1) अधिनियम भेजा जाए।

जगत सिंह, पीठासीन अधिकारी
[सं. एल.-12012/94/87-डी IV (ए)]

का. भा. 308.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पक्ष पर प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 308.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of Bikaner and Jaipur and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस न. सी. आई. टी. 35/86

केन्द्र सरकार अथ मन्त्रालय की अधिसूचना संख्या :
एल. 12012/24/83 डी. II (ए) दि. 11-8-86

रामकिशन छाबड़ा पुत्र श्री किशोरीलाल छाबड़ा,
116—सा ब्लॉक, श्रीकरणपुर, अर्धगांतनगर (राज.)

वनाम

जनरल मैनेजर, स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर,
मुख्यालय, तिलक मार्ग, जयपुर।

उपस्थिति :

अधिक पक्ष की ओर से : कोई हाजिर नहीं
नियोजक पक्ष की ओर से : श्री एस. के. जैन
दिनांक अर्वाह : 19-7-91

अर्वाह

श्री एस. के. जैन विपक्षी की ओर से उपस्थित हैं। प्रार्थी की ओर से कोई हाजिर नहीं है। प्रार्थी व प्रार्थी के प्रतिनिधि पिछले पेशी को ध्यान में रखते हैं कि ऐसा कानून होता है कि इस प्रकरण में प्रार्थी कोई पक्ष नहीं रखता है अतः इस प्रकरण में कोई विस्मृत अर्वाह पास किया जाता है, जो केन्द्रीय सरकार को प्राप्त करने के लिए भेजा जाता है।

जगत सिंह, न्यायाधीश

[सं. एल.-12012/24/83-डी-II (ए)]

का. भा. 309.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ राजस्थान लिमिटेड प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पक्ष पर प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 309.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Rajasthan Limited and their workmen, which was received by the Central Government on the 1-1-1992.

as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Rajasthan Limited and their workmen, which was received by the Central Government on the 1-1-1992.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस न. सी. आई. टी. 94/77

केन्द्र सरकार अथ मन्त्रालय की अधिसूचना संख्या :
एल. 12012/54/37-डी-41(ए) दि. 30-11-87

सेक्टर, नेशनल कॉन्फेडरेशन ऑफ बैंक एम्प्लॉयज,
एम 72, रामचंद्र रोड, अजमेर।

वनाम

महाप्रबन्धक, बैंक ऑफ राजस्थान लि., सी-72,
रोजनी मार्ग, सी-स्कॉम, जयपुर।

उपस्थिति :

नियुक्त की ओर से : श्री सी. डी. चतुर्वेदी
नियोजक की ओर से : श्री केवलराम
दिनांक अर्वाह : 27-9-91

अर्वाह

केन्द्र सरकार ने निम्नलिखित विवाद इस न्यायाधिकरण को अधि-निर्णयारहेतु अपनी अधिसूचना संख्या : एल. 12012/54/87-डी-IV (ए) के अंतर्गत औद्योगिक विवाद अधिनियम 1947 की धारा 10(1)(डी) प्रेषित किया है—

"क्या बैंक ऑफ राजस्थान लि. के प्रबंधन की अपनी सुपेरेडर शाखा में निधिक श्री एस. एम. अग्रवाल की सेवाओं 30-11-82 से समाप्त करने की कार्यवाही वैध और न्यायोचित है? यदि नहीं तो संबंधित कर्मकार किस अनुसंधान का हकदार है?"

2. नेशनल कॉन्फेडरेशन ऑफ बैंक एम्प्लॉयज, अजमेर के सचिव की तरफ से श्रमिक एस. एम. अग्रवाल की सेवा मुक्ति का विवाद खड़ा किया गया है, जिसने इस न्यायालय में क्लेम प्रस्तुत किया है और जिसे क्लेमचार्ज प्रार्थी संघ सम्बोधित किया गया है।

3. प्रार्थी संघ का कहना है कि अनिक्त एन. एन. अग्रवाल की प्रथम नियुक्ति दिनांक 13-9-82 को 15 दिनों के लिए की गई थी और 13-9-82 से 27-9-82 तक थी जिस पर के पश्चात् 11-11-82 तक बढ़ाई गई और अंतर्गत 30-11-82 को श्रमिक की छुट्टी कर दी गई। प्रार्थी संघ का कहना है कि श्रमिक की छुट्टी के उपरान्त सर्वोच्च जयदी गुप्ता, श्री पी. वंश, और श्री व्यास की भी श्रमिक के द्वारा अपनी पद पर नियुक्त किया गया है। श्रमिक की छुट्टी की तब भी प्रार्थी के निवेदन में श्रमिक से कनिष्ठ व्यक्ति को ऐसा मुक्त नहीं किया गया। सेवा मुक्ति के समय नियोजक के पास स्थाई प्रकृति का कार्य उपलब्ध था जिस पर श्रमिक को नियुक्त किया गया था और यही कार्य तत्पश्चात् नियुक्त श्रमिकों ने लिया गया है। छुट्टी के समय नियोजक द्वारा धारणता सूची नहीं बनाई गई और औद्योगिक विवाद (केन्द्रीय) विधायी 1957 के नियम-77 एवं 78 की अवहेलना की है। प्रार्थी संघ का कहना है कि दिनांक 30-11-82 से ही श्रमिक को सेवा में स्थाई रूप से लिया जावे तथा उसे वेतन, बोनस, पेंशन और धारणता आदि के सभी लाभ दिलाये जायें।

3. प्रार्थी नियोजक ने नरिये प्रतिउत्तर क्लेम के कथनों को अस्वीकार किया है और कहा है कि श्री एस. एम. अग्रवाल से सुपेरेडर शाखा में दिनांक 13-9-82 से 13-11-82 तक क्लेम के पद पर कार्य

लिया गया था। उसकी नियुक्ति निश्चित अवधि के लिए 13-9-82 से 27-9-82 तक के लिए की गई थी जिसे तत्पश्चात् 29-11-82 तक बढ़ाई गई और अंततोगत्था 30-11-82 के बाद नहीं बढ़ाई गई इसलिए श्रमिक को निश्चित अवधि के लिए नियुक्त किया गया था जो समाप्त होने पर श्रमिक को सेवायें स्वतः ही समाप्त हो गईं। नियोजक के अनुसार श्री भी. पी. बंसल तथा अन्य व्यक्तियों की नियुक्ति अन्य खाली पदों पर की गई थी जो भी निश्चित अवधि के लिए की गई थी इसलिए वरिष्ठता एवं कनिष्ठता का कोई प्रश्न नहीं था। श्री अग्रवाल ने लगाना एक वर्ष तक सेवा नहीं की है इसलिए ये किसी लाभ का अधिकारी नहीं हैं और नियोजक ने शायद अग्रवाल के किसी प्रावधान की अवहेलना नहीं की है न ही औद्योगिक विवाद निधियम 1947 के प्रावधानों की अवहेलना की है क्योंकि श्रमिक ने उनके 79 दिवस ही कार्य किया है। धारा-25 (जी) और (एच) की भी अवहेलना नहीं की गई। सेवा मुक्ति के उपरांत से श्रमिक अन्य लाभप्रद नियोजन में रहा होगा तथा उसने छंटनी के साथे पांच वर्ष उपरांत वह विवाह उठाया है जो बहुत ही विचित्र होने से प्रारिज करने योग्य है।

4 अपने कथनों के समर्थन में श्रमिक अग्रवाल ने स्वयं का शपथपत्र प्रस्तुत कर मर्यापन कराया जिससे नियोजक प्रतिनिधि ने जिरह की है। इसके विपरीत नियोजक की तरफ से श्री रणजीतमल नाहर शाखा अध्यक्ष का शपथ पत्र पेश हुआ है जिससे श्रमिक प्रतिनिधि ने जिरह की है। प्रलेखिक साक्ष्य में नियोजक की तरफ से एम-1 अनायत एम-6 फोटो प्रति पेश हुई है। तत्पश्चात् मैंने पत्रावली का निरीक्षण किया और पदाकारों के प्रतिनिधियों को विस्तार पूर्वक सुना।

5. श्रमिक ने क्लेम के अनुसार ही अपने शपथ पत्र में भी कहा है कि उसकी नियुक्ति सुमेरपुर शाखा में 13-9-82 से 30-11-82 तक की गई थी। नियोजक साक्षी रणजीतमल नाहर ने भी उक्त तथ्यों की पुष्टि की है। तथा प्रलेखिक साक्ष्य से भी यह साबित है कि श्रमिक को एक निश्चित अवधि के लिए नियुक्त किया गया था जो प्रारंभ में 13-9-82 से 27-9-82 तक था जिसे तत्पश्चात् 29-11-82 तक बढ़ाया गया और फिर 30-11-82 तक बढ़ाया गया तत्पश्चात् सेवा अवधि नहीं घटाई गई। यह सही है कि प्रलेख पर उपलब्ध उपरोक्त मौखिक व प्रलेखिक साक्ष्य से यह सही है कि श्रमिक का सेवा काल निश्चित अवधि के लिए ही था अर्थात् दिनांक 30-11-82 तक ही था परन्तु नियोजक को इससे कोई लाभ नहीं मिलता क्योंकि वास्तव में नियोजक के पास इस श्रमिक द्वारा किये जाने वाला कार्य दिनांक 30-11-82 के बाद भी उपलब्ध था क्योंकि नियोजक की तरफ से श्री भी. पी. बंसल आदि अन्य व्यक्तियों से भी वही कार्य लिया गया था जो श्रमिक से लिया गया है। नियोजक साक्षी भी रणजीत मल नाहर से उक्त विषय में प्रतिपरीक्षा की गई थी और जिसने स्पष्ट उत्तर न देकर कहा है कि जिस समय मवन मोहन की सेवा समाप्ति की उस समय कोई अस्थाई व्यक्ति काम कर रहा था या नहीं, मैं रिकार्ड देखकर बता सकता हूं। उक्त रिकार्ड ब्रांच आफिस में रहता है। साक्षी के उक्त उत्तर से ही यह निष्कर्ष निकलता है कि किसी तथ्य को छिपाने की कोशिश कर रहा है अन्यथा उसमें उपेक्षा थी कि वह इस विषय में शाखा का रिकार्ड देखकर आता अथवा साथ लेकर आता। तत्पश्चात् भी नियोजक की तरफ से इस विषय में कोई रिकार्ड पेश नहीं किया गया है अब प्रार्थी संघ ने क्लेम में ही यह स्पष्ट कर दिया था कि दिनांक 30-11-82 के उपरांत भी नियोजक के पास कार्य उपलब्ध था फिर भी श्री अग्रवाल की छंटनी कर दी गई और उसकी जगह अनेकों व्यक्तियों को नियोजित रखा गया। जिनमें से श्री जयंती-लाल गुप्ता, श्री पी. बंसल एवं श्री व्यास प्रमुख व्यक्ति हैं। फिर भी नियोजक ने और क्लेम के प्रतिउत्तर में तो यह कहा है कि श्री भी. पी. बंसल एवं अन्य व्यक्तियों की नियुक्ति निश्चित अवधि पर की गई थी परन्तु न तो इस विषय में कोई रिकार्ड पेश किया गया और न ही श्रमिक एम. एम. अग्रवाल से प्रतिपरीक्षा की गई। नियोजक साक्षी रणजीत मल नाहर ने भी इस विषय में अपने शपथ पत्र में कुछ दर्ज नहीं किया और जब प्रतिपरीक्षा में इस बात सुनायात्मक प्रश्न पूछे गये तो रिकार्ड देखे बिना अनभिज्ञता जाहिर की। उपरोक्त तथ्यों से यही निष्कर्ष निकलता है कि

वास्तव में दिनांक 30-11-82 को एवं तत्पश्चात् भी नियोजक के पास वही कार्य उपलब्ध था जो श्रमिक से लिया जा रहा था। और चाहे श्रमिक की नियुक्ति निश्चित अवधि अर्थात् 30-11-82 तक लिए की गई हो चूंकि नियोजक के पास कार्य उपलब्ध था इसलिए नियोजक से उपेक्षा थी कि वह श्री एम. एम. अग्रवाल की सेवायें उतनी अवधि तक आते और बढ़ते जितना अवधि तक वह कार्य उपलब्ध था परन्तु ऐसा न करके नियोजक ने श्री एम. एम. अग्रवाल वाला कार्य ही अन्य नव नियोजित व्यक्तियों से करवाया जो अनकेयर लेबर प्रेडिस की परिभाषा में आता है और नियोजक को धारा-2 (ओबी बीबी) का लाभ नहीं मिल सकता।

6. प्रार्थी संघ ने क्लेम में ही यह दर्ज किया है कि दिनांक 30-11-82 को तथाकथित सेवा मुक्ति/छंटनी के समय श्री एम. एम. अग्रवाल को तब ही अन्य काम करने जाने अस्थाई श्रमिकों की वरिष्ठता सूची तैयार नहीं की गई है जिस तथ्य को नियोजक ने भी अपने प्रतिउत्तर में स्वीकार किया है। तथा नियोजक साक्षी रणजीतमल नाहर ने भी प्रतिपरीक्षा में स्वीकार किया है कि अस्थाई कर्मचारियों को हटाने समय हमने उनकी वरिष्ठता की सूची नहीं बनाई। इस प्रकार मेरी राय में नियोजक ने औद्योगिक विवाद (केन्द्रीय) नियमावली 1957 के नियम-77 व 78 की भी अवहेलना की है।

7. प्रार्थी संघ ने क्लेम में यह भी दर्ज किया है कि दिनांक 30-9-82 को श्रमिक एम. एम. अग्रवाल की सेवा मुक्ति/छंटनी की गई थी उस रोज उससे कनिष्ठ सर्वश्री भी. पी. बंसल, जयन्तीमल गुप्ता व श्री व्यास आदि व्यक्ति नियोजन में थे। प्रतिउत्तर द्वारा नियोजक ने यह स्वीकार किया कि नियोजन में उक्त व्यक्ति अन्य रिक्त पदों पर नियोजित थे। अपने शपथ पत्र में श्रमिक कहता है कि सर्वश्री भी. पी. बंसल और मुकुट लाल अग्रवाल की नियुक्ति 8-11-82 को की गई थी तथा 30-11-82 को वे श्रमिक से कनिष्ठ या जिनकी छंटनी नहीं की गई उक्त तथ्यों पर उस साथी से नियोजक द्वारा प्रतिपरीक्षा नहीं की गई तथा इस विषय में प्रतिपरीक्षा करने पर नियोजक साक्षी रणजीतमल नाहर कहता है कि जिस समय मवन मोहन अग्रवाल की सेवा समाप्त की उस समय कौन अस्थाई व्यक्ति काम कर रहा था रिकार्ड देखकर बता सकता है। अधिप्राय यह है कि नियोजक साक्षी ने उत्तर को टालने का प्रयास किया है अन्यथा या तो वह रिकार्ड देखकर आता अथवा तत्पश्चात् भी ऐसा रिकार्ड भी नियोजक की तरफ से पेश होता इसलिए श्रमिक के कथनों पर विश्वास किया जाता है और यह साबित है कि दिनांक 30-11-82 को जिस रोज श्रमिक की छंटनी की गई उस रोज उससे कनिष्ठ व्यक्ति ऐसे ही अस्थाई पद पर नियोजन में थे इसलिए नियोजक ने धारा 25(जी) और 25(एच) की भी अवहेलना की है और दिनांक 30-11-82 के उपरांत वे श्रमिक की सेवायें नहीं बढ़ाना उचित एवं वैध नहीं था। नियोजक ने क्लेम के प्रतिउत्तर में दर्ज किया है कि दिनांक 30-11-82 के उपरांत दिनांक 13-4-87 को श्रमिक ने औद्योगिक विवाद खड़ा किया है और साठे पांच वर्ष का विलम्ब किया है। उक्त तथ्य का प्रतिवाद प्रार्थी संघ अथवा श्रमिक ने नहीं किया है इसलिए दिनांक 30-11-82 से 13-4-87 तक की अवधि का वेतन भत्ता आदि प्राप्त करने का यह श्रमिक अधिकारी नहीं है परन्तु इसकी सेवा की निरंतरता कायम रखी जायेगी। हालांकि नियोजक ने अपने प्रतिउत्तर में यह दर्ज किया है कि श्रमिक ने सेवा मुक्ति के उपरांत से अन्यत्र कहीं नियोजक कर लाभ का कार्य किया होगा परन्तु इस बात न तो कोई प्रलेखिक एवं मौखिक साक्ष्य पेश की है और न ही श्रमिक एम. एम. अग्रवाल से प्रतिपरीक्षा में कोई इस प्रकार का सुक्ष्म-वाचक प्रश्न किया है इसलिए यह साबित नहीं है कि सेवा मुक्ति के उपरांत यह श्रमिक किसी लाभप्रद नियोजन में रहा हो और इस निर्देश का अधिनियम निम्न प्रकार से किया जाता है—

श्रमिक एम. एम. अग्रवाल अस्थाई कर्मक सुमेरपुर शाखा की दिनांक 30-11-82 सेवा मुक्ति उचित एवं वैध नहीं है और उसे उक्त पद पर नियोजित घोषित किया जाता है, इसकी सेवा की निरंतरता कायम रखी जाती है तथा उसे दिनांक 13-4-87 से उक्त पद का वेतन व अन्य सभी

लामू दिलाये जाते हैं। उक्त आशय का अवाई पारित किया जाता है, जिसे प्रकाशन हेतु केन्द्रीय सरकार को भेजा जाये।

जगत सिंह, न्यायाधीश

[सं. एल.-12012/54/87-डी-IV(ए)]

एस. सो. शर्मा, डेस्क अधिकारी

नई दिल्ली, 3 जनवरी, 1992

का. आ. 310.--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 अनुसरण में, केन्द्रीय सरकार एस. डो. ओ. टेलीफोन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-12-91 को प्राप्त हुआ था।

New Delhi, the 3rd January, 1992

S.O. 310.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SDO Telephones, Tenali and their workmen, which was received by the Central Government on 31-12-91.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT:

Sri G. Krishna Rao, B.A..B.L., Industrial Tribunal.

Dated the Nineteenth day of December, Nineteen hundred and ninety one.

Industrial Dispute No. 28 of 1989

BETWEEN:

The Workman of Sub-Divisional Officer, Telecom, Tenali (AP)—PETITIONER.

AND

The Management of Sub-Divisional Officer, Telecom, Tenali (AP)—RESPONDENT.

This case is coming for final hearing before me in the presence of Sri C. Suryanarayana, Advocate for the workman and Sri M. Panduranga Rao and Sri B. G. Ravinder Reddy, advocates for the Respondent-Management and upon perusing the material papers on record and having stood over for consideration till this day, the Court passed the following:—

AWARD

1. This is reference made by the Government of India, Ministry of Labour, by its Order No. L-40011/20/88-D.II(B) dated 27-3-1989 for adjudication of the dispute between the Management of Sub-Divisional Officers, Telecom, Tenali and their workmen setting forth the point for adjudication in the schedule appended thereto as follows :

“Whether the action of Sub-Divisional Officer Telephones, Tenali in terminating the services of Shri M. M. K. Brahmaj, part-time Sweeper-cum-Waterman with effect from 24-5-1986 is justified? If not, to what relief Sri Brahmaj is entitled?”

The said reference was registered as I.D. No. 28 of 1989 on the file of this Tribunal. After receiving notices both parties put in their appearance. The petitioner held the claims statement on 6-5-1989 and the Respondent filed the counter on 11-9-1989.

2. The averments of the claim statement filed by the petitioner-workman read as follows:

This statement is being filed in pursuant to the order dt. 27-3-1979 contained in the Ministry of Labour, Government of India Case mark No. L-40011/20/83-B-III(B) issued

under the signature of Desk Officer Sri Hari Singh and this Hon'ble Tribunal's Notice dt. 5-4-1979. The following is the schedule contained in the order :

“Whether the action of the Sub-Divisional Officer, Telephones, Tenali in terminating the services of Sri M. M. K. Brahmaj, part Time sweeper-cum-Waterman w.e.f. 24-5-86 is justified? If not to what relief Sri Brahmaj is entitled?”

The petitioner submits that by an order dt. 19-4-1977 of the then Sub-Divisional Officer, Telegraphs, Tenali, he was selected to work as Mazdoor in the construction and maintenance parties of Tenali Telegraph Sub-Division. According to the certificate dated 6-5-82 issue by the said SDOT, Tenali, the petitioner worked for 27 days in April 1977 and 6 days in May 1977. According to another certificate dated 18-2-82 issued by the very same SDOT, Tenali, the petitioner worked in October 1977 for 22 days, in November 1977 for 30 days, in December 1977 for 31 days and in January 1978 for 31 days. Vide the said SDOT's letter dated 9-1-1978, the applicant was called to his office at 1100 hrs. on 24-1-1978 for interview with all his educational and service certificates for appointment to Part-time posts. But, this was postponed and the interview was held on 3-2-1978 at 1030 hrs. vide the SDOT's letter dated 20-1-1978. Subsequently, by an order dated 3-2-1978, the SDOT, Tenali selected the petitioner for appointment as a Part-time Sweeper-cum-Waterman in his own office and on the next day i.e. on 4-2-1978 another order was issued by the SDOT, Tenali, appointing the petitioner as part time sweeper-cum-waterman in his own office and directing that the petitioner shall work for six hours a day on monthly wages of Rs. 157.50. And on a separate Office Order No. 74 dated 4-2-1978, the same Officer arranged split duty for the petitioner directing that the petitioner shall work for three hours in the morning from 6 A.M. to 9 A.M. and for three hours in the evening from 2 P.M. to 5 P.M. About a month and half later, the SDOT, Tenali terminated the petitioner's service as Part Time Sweeper-cum-Waterman in his own office on the afternoon of 20-3-1978 on the ground that the petitioner was being re-appointed as Part Time Sweeper-cum-Waterman in the Carrier Station at Tenali. On the Forenoon of 21-3-1978, the said SDO Telecom, Tenali appointed the petitioner as Sweeper-cum-Waterman in the Carrier Station at Tenali on a monthly wage of Rs. 157.50ps. and prescribing six hours work per day. The petitioner submits that the Carrier Station of Tenali was also under the jurisdiction of the same SDOT, Tenali. Subsequently the Tenali Telegraph Sub-Division was bifurcated into the new Tenali Phones Sub-Division and the residual Tenali Telegraph Sub-Division. As a result, the petitioner came under the jurisdiction of the Sub-Divisional Officer, Phones, Tenali by January, 1982. By an order dated 27-1-1982, the SDO, Phones Tenali i.e. the respondent herein transferred the petitioner as a part time official at Telephone Exchange, Tenali and put him under the control of Junior Engineer, Phones, Trunks, Tenali. On relief, he joined the Trunk Exchange on the forenoon of 29-1-1982. By an order dated 10-12-1982, the then Divisional Engineer, Telecom, Guntur directed the petitioner to appear for interview at 1100 hrs. on 28-12-1982 before the DPC in his chambers at Guntur for selection of Group 'D' Officials (non-test category). He was required to produce all original certificates, copies of which he has submitted along with his application. Along with his certificates of educational qualifications etc., the petitioner has also produced the certificate issued by the Respondent on 24-12-1982 showing that the petitioner was working as Part Time Sweeper-cum-Waterman from 4-2-1978 onwards and that he had completed four years of service by 4-2-1982. Subsequently the respondent gave a service certificate on 30-7-83 in favour of the petitioner showing the details of his employment from time to time, which included the petitioner's employment as equipment cleaner at Carrier Station, Tenali during the period from 21-3-1978 to 29-1-1982 i.e. for nearly 4 years. And thereafter from 30-1-1982 till the date of issue of the Certificate as Sweeper-cum-Waterman at the Telephone Exchange, Tenali. By a subsequent certificate dated 21-6-1985, the Respondent certified that the petitioner was appointed as Part-time Sweeper-cum-Waterman in Trunk Exchange, Tenali on 4-2-1978 and has completed 7 years of service as on 4-2-1985. Unfortunately, the respondent gave a notice under his Memo No. E11/1/85-87/224 dated 24-4-86 terminating the Part Time appointment of the petitioner w.e.f.

24-5-1986. Therefore, on 25-4-1986 i.e. the day after the notice was served to the petitioner he made a representation to the D.E. Telecom, Guntur stating that he was served with one month's notice to terminate his service from 24-5-86 and that he was working in the department for the last 10 years with a fond hope that he would be absorbed in a regular post of Class IV or at least as a regular mazdoor, but it was unfortunate that he was served with termination notice for no valid or justifiable reason. He stated further that he had no means or livelihood except the part-time employment and that he had also submitted earlier to the D.E. Telecom, Guntur a representation to convert his service into casual mazdoor as per the orders of the Director General, P&T. He submitted further that even after 20 days he came to know that his representation was kept pending in the Respondent's office and hence requested the D.E. Telecom, Guntur to intervene in the matter personally and issue instructions for his conversion from Part Time Official to full time casual Mazdoor before his services were terminated on 24-5-1986. He also submitted that the one month's notice issued by the SDO, Tenali is illegal and against the principles of natural justice. (The petitioner's submission that the notice was illegal and violative of principles of natural justice was on the ground that the notice was not in compliance with the mandatory provisions of Section 25-F of the Industrial Disputes Act 1947). He made a fervent appeal for timely action, but in vain. As a result of the same, within four days of his termination from service, he raised an Industrial Disputes on 28-5-1986 before the Assistant Labour Commissioner (Central), Vijayawada. Narrating the facts relating to his case, the petitioner submitted that the termination order was illegal and arbitrary, that he has by then become over-aged as result of which he would not be eligible to appear for any employment sponsored by the Employment Exchange, that he has completed his nine years service in the Telecom Deptt and therefore, prayed that the Assistant Labour Commissioner (C) might enquire into the matter and help his reinstatement in service. The A.L.C(C), Vijayawada gave the first notice on 19-8-1986 and called the Respondent and the petitioner for conciliation proceedings on 26-8-1988. The Respondent appeared before the ALC(C) and represented that as and when vacancy arises the petitioner would be taken back to duty in consultation with the D.E. Telecom, Guntur. But there was no action for a long time. Therefore on 17-8-1987, the petitioner made a representation to the Assistant Labour Commissioner for justice in the matter. The representation was in Telugu. He submitted another representation dated 2-11-1987 also to ALC(C), Vijayawada praying that the conciliation proceedings be resumed and posted at an early date for final decision in the matter. Meanwhile, as a result of an agreement between the National Federation of Telecom Employees and the Director General of Telecommunications, order were issued to regularise all casual workers, whether Part Time or Full Time, having 7 years service or more as on 31-3-1987. In view of the same, the petitioner went to the Respondent's office to enquire whether there was any chance of his being reinstated in service. Then the Respondent gave the petitioner an application form, an attestation form, health certificate (proforma) a certificate to declare nationality and another declaration form to be obtained from new entrants to Govt. service, along with the statement and a declaration attached thereto to and asked the petitioner to fill up and submit the same. But when the petitioner filled up and submitted the same, the Respondent refused to accept it. As a result, the petitioner was obliged to submit the same through a registered letter No. 1300 dt. 12-11-1987 of Guntur Head Post Office and send it with acknowledgement due. The respondent received it on 13-11-1987. But the petitioner's name was not considered for regularisation as a Group 'B' employee, under the said scheme. Since the Divisional Engineer, Telecom, Guntur (who has since been redesignated as Telecom District Engineer, Guntur) did not prepare the seniority list of casual labourers, Part time or full time, in his Division, in accordance with the provisions of Section 25-B of the Industrial Disputes Act defining continuous service. Consequently, the petitioner did not know where he stood in the seniority list and whether he would stand a chance of being absorbed as a regular Group 'D' employee on the basis of his seniority list so prepared and in accordance with the Director General's orders mentioned above. Therefore he gave a reminder on 22-11-1987 to the Assistant Labour Commissioner requesting him to complete the conciliation proceedings. He followed up the same by a subsequent letter

dated 7-5-1988, which he posted on 9-5-1988 to the Assistant Labour Commissioner. The conciliation proceedings were held on 26-9-86, 31-10-86, 24-11-86, 29-1-87, 25-3-87, 13-7-87, 25-8-87 (which was postponed to 10-9-87, which was again postponed to 26-10-87) 1-3-88, 18-4-88 and finally on 29-8-88. The respondent appeared on most of the dates, but not on the last date (29-8-88). He presented himself on 30-8-88. On that date, the Assistant Labour Commissioner (C), Vijayawada, wrote a letter No. 8/3/86-ALX-BZA dated 30-8-1988 to the Secretary to the Govt. of India, Ministry of Labour, New Delhi with which he forwarded the minutes of the conciliation proceedings of the same date. The ALC(C) reported failure. According to the minutes, the respondent stated that his comments dated 11-9-1986 hold good and that during 1987 the Telecom Department have called for details of workman who completed 7 years of service in the organisation. He also submitted that in accordance with the Circular related to regularisation of the workman with 7 years service, the petitioner's application was also forwarded to the Telecom District Engineer, Guntur and that it was pending with the later for taking decision in the matter. Thus, the respondent not only attempted to side track the main issue of illegal retrenchment of the petitioner but also made false promises that the petitioner's application was under consideration. While asking the promise, he gave the impression that the petitioner would be regularised in the seven years service scheme, but in vain. In view of the statement made by the Respondent before the ALC(C) at Vijayawada as recorded in the said minutes, the petitioner gave a representation on 26-6-1988 to the Telecom District Engineer, Guntur and sent it by registered letter No. 9477 dated 26-12-1988 to the Respondent for onward transmission to the Telecom District Engineer. The petitioner prayed for regularisation of his service as a Group 'D' employee, but in vain. He was not regularised but several other casual labourers and part time employees with seven years service or more were regularised. Therefore, the petitioner submitted a representation on 14-1-1989 to the Secretary to the Ministry of Labour, Govt. of India praying that a reference be made to this Hon'ble Tribunal indicating two issues distinctly and separately while referring his case for industrial adjudication, viz., whether the petitioner's retrenchment is valid and if it is not valid whether the petitioner is entitled for absorption as a regular Group 'D' employee in as much as he had to his credit more than seven years of continuous service as casual labourer and part time worker in the Telecom Department. It is as a result of this that the above reference was made to this Hon'ble Tribunal. In the circumstances, the petitioner submits that his retrenchment from service w.e.f. 24-5-1986 is illegal, null and void in as much as the mandatory provision of Section 25-F of the Industrial Disputes Act have not been complied with by retrenching the petitioner from service accepting the formal notice of one month and consequently the petitioner is entitled to reinstatement with full back wages, continuity of service and all other incidental and consequential benefits including his absorption as a regular group 'D' employee pursuant to the scheme circulated by the Director General, Telecom, New Delhi after the agreement was signed between the Employees Federation and the Director General representing the Government. The petitioner, therefore, prays that this Hon'ble Tribunal may pass the award accordingly.

3. The averments of the counter filed by the respondent read as follows :

It is submitted that the various allegations made in the claim statement filed by the petitioner are not correct and are therefore hereby denied. The petitioner is put to strict proof of the allegations made by him in his claim petition. It is submitted that the respondent herein is an office of the Telecommunication Department, Government of India and the same is not an 'industry' within the meaning of the Industrial Disputes Act and therefore the reference made by the Government to this Hon'ble Tribunal is illegal and without any jurisdiction. Without any prejudice to what has been stated above, it is submitted that the petitioner was selected as casual mazdoor, SDO Telecommunications Sub-Division as part-time sweeper-cum-waterman on 4-2-1978. The petitioner was working as such for six hours per day. At the time of appointment, in the appointment order itself he was categorically informed that his

services were only part-time basis and his services were liable for termination at any time without assigning any reasons or notice. He was subsequently posted to Carrier Station, Tenali under SDO, Tenali. On formation of SDO Phones, Tenali on 8-11-1979 the Carrier Station comes under the control of SDO Phones, Tenali. There were number of complaints against the petitioner and written complaints were also made by the J. E. Carrier station in his letters dated 6-5-1981, 11-7-1981, 31-12-1981 and 12-1-1982 against the petitioner for his irregular attendance, negligence of duties, indifference towards duty etc. The petitioner was transferred and posted in the Trunk Exchange under the control of J. E. Trunks, Tenali vide office letter No. E-11/1/79-80/76 dated 27-1-1982. Even at the Trunk Exchange he was irregular in attendance and was absenting from duty without any intimation frequently. This was informed by the JE Trunks, Tenali in his letters dated 24-10-85 and 19-4-86. It is submitted that the petitioner was absent from duty from 2-4-86 to 23-4-86 without any intimation. Therefore, he was given one month's notice for terminating his services vide office letter No. E-11/1/86-87/224 dated 24-4-1986. Again the petitioner absented with effect from 25-4-86 onwards without any intimation or permission. The petitioner having acknowledged one month's notice which was given by letter dt. 24-4-86 for terminating his services, he did not complain anything against it. Finally, his services were terminated with effect from 24-5-86 vide Respondent's letter bearing No. E-11/1/86-87/234 dated 24-5-86. It is submitted that termination order was served on the petitioner through JE Trunks, Tenali. J.E. Trunks, Tenali informed that the petitioner refused to receive the termination orders. When he personally approached on 27-5-1986 a copy of the termination order was furnished to him by the Respondent's Office in letter No. E-11/1/86-87/237 dated 27-5-86 which was addressed to the Petitioner. It is submitted that during November, 1987 when applications were called for from the casual mazdoors who have completed seven years of service, the petitioner sent an application to the office claiming that he had completed 7 years as casual mazdoor before his services were terminated. Even though he was not in the rolls of the SDO Phones, Tenali his application was forwarded to the TDE Guntur with complete details vide letter No. E-11-A/87-88 dt. 24-11-1987. It is submitted that the petitioner was a chronic absentee and had no interest in the employment. It is submitted that the petitioner was only working as sweeper-cum-waterman on part time basis and he was never appointed on regular basis. He was only a casual labourer and therefore he cannot have any right for regular employment. It is submitted that the petitioner was absent on the following days during the service he put in under the Respondent during the year 1986.

3-1-86, 8-1-86, 9-1-86, 10-1-86	Absent for half days
and 11-1-86	
21-1-86	Absent
31-1-86	Absent for half day
5-2-86	Absent for half
15-2-86	Absent
16-2-86, 19-2-86, 22-2-86, 24-2-86	Absent for half days
& 28-2-86	
18-12-86 to 21-12-86	Absent
3-3-86, 4-3-86, 5-3-86, 7-3-86,	Absent for 6 full days
8-3-86 and 9-3-86	
1-3-86, 2-3-86 & 6-3-86	Absent for half days
22-3-86	Absent
24-3-86	Absent for half day
2-4-86 to 15-4-86	(The official proceeded on 2-4-86 and thereupon absented unauthorisedly without turning for duty for upto 23-4-86)

It is also submitted that even earlier to 1986, he was absent on number of times without any intimation to the Respondent. Due to the action of the petitioner, the respondent was put to lot of inconvenience and lot of trouble. In spite of number of warnings, there was no change in the petitioner and as the petitioner was not regular to his duties, the respondent was constrained to terminate his employment. It is submitted that the allegation that the petitioner has put in ten years of service under the Respondent is not correct and is also not based on any record. It is reiterated that the petitioner was working only as a part-time sweeper-cum-waterman on casual basis. The petitioner was given due notice before his services were terminated, but the petitioner did not raise any objection. Apart from that, the petitioner is also guilty of absentism and having absented himself number of times, without any kind of intimation or notice, he cannot now come to this Hon'ble Tribunal and say that his services were terminated illegally. It is submitted that the termination of the petitioner from service is legal, valid and justified in the circumstances of the case. It is therefore, prayed that this Hon'ble Tribunal may be pleased to dismiss the claim of the petitioner with costs of the respondent.

4. W.W. 1 was examined for the petitioner and petitioner's side was closed. Exs. W1 to W31 were marked for the petitioner. M.W. 1 was examined for the respondent and Respondent's side was closed. Exs. M1 to M3 were marked for the respondent.

5. The point for adjudication is whether the action of Sub-Divisional Officer, Telephones, Tenali in terminating the services of Shri M. M. K. Brahmaji, Part-time Sweeper-cum-waterman with effect from 24-5-1986 is justified? If not, to what relief Sri Brahmaji is entitled?

6. Point.—The undisputed facts of the case are that the petitioner worked as part-time casual worker in the respondent-department from 19-4-1977 to the end of January, 1978 and thereafter from 4-2-1978 till 24-5-86 on which date the petitioner was terminated, continuously. It is contended by the petitioner that he completed 240 days uninterrupted service during every year of his service and he worked in the respondent-department from 19-4-1977 to January, 1978 and from 4-2-78 to 24-5-86. In support of his case, the petitioner filed Exs. W2, W3, W12, W13 and W15 service certificates, issued by the respondent-department and the issue of the said certificates is not denied by the respondent. The evidence of M.W. 1 is relevant on this aspect. M.W. 1 Sri P. Bhaskar Rao, S.D.O. Phones, Tenali deposed that the petitioner was appointed on 4-2-1978 for the first time and the document filed by the other side is Ex. W6, that he was appointed as part-time sweeper-cum-waterman and he was expected to work from 6 A.M. to 9 A.M. and from 2 P.M. to 5 P.M. as per the office order dated 4-2-78 filed by the other side Ex. W7, that he was posted to Carrier Station, Tenali under S.D.O. Telephones, Tenali, that Exs. W8 to W10, W12, W13, W15 and W16 were all issued by their S.D.O.'s office, Tenali, that W.W. 1 was not regular in his attendance and absenting himself, dislocating the office discipline and maintenance from the view point of cleanliness and he is also causing inconvenience for supply of water, that W.W. 1 was absent from January, 1986 to April, 1986 for 52 days in these four months, that then he was issued a one month's notice that his services would be terminated from 24-5-86 as per Ex. W16, that what representations be made or to whom they are not aware and they do not have any representations or explanations of his in their office, that he says that Ex. W17 is not an explanation but a representation for conversion into casual labour from sweeper, that then they also issued a termination order Ex. M1 dated 24-5-86, that but it was endorsed on the Ex. M1 that W.W. 1 blantly refused to receive this letter, that Ex. M1 was served through J. E. Trunks, Tenali, that they tried to serve Ex. M1 through J. E. Trunks, Tenali, that they also wrote a separate letter about the refusal of W.W. 1 as per Ex. M2 and that they also prepared a note about the absence of W.W. 1 from 1981 onwards and that is Ex. M3. During the course of cross-examination of M.W. 1 it is elicited that part-employee is not a cadre employee, that casual labourers employees are not cadre employees, that the jurisdiction of transfer for a part-time employee is within sub-division, that if a part-time employee is transferred within the same sub-division, termination of service is not necessary, when he is transferred from one office in the same sub-division to another office, that except not paying

for the days in which he is absent himself, no other action was taken against W.W. 1, that as he was absent for 52 days, termination notice was given and his services were terminated after one month, that except his wages, no other amount was paid at the time of termination, that except not paying him, his daily wages no other action was taken against W.W. 1, that he was transferred so that he may improve himself and reduce his absenteeism and that as he did not improve, they gave termination notice and terminated him.

7. As seen from Ex. W16 termination notice dated 24-4-86 no reasons were assigned for terminating the petitioner from service with effect from 24-5-1986, much less that the department intended to terminate the service of W.W. - due to reason of his frequent absenteeism or unauthorised absenteeism as stated by M.W. 1 in his deposition. Admittedly, M.W. 1 deposed as per the records since he has been working as S.D.O., Phones, Tenali since 1987, that is subsequent to the termination of W.W. 1 from service, as deposed by M.W. 1. So it is clear from the evidence of M.W. 1 that he is not having personal knowledge about the conduct and alleged absenteeism of W.W. 1 during the period he worked in the respondent-department. No documentary evidence is produced by the respondent like Attendance Registers, Wage Registers or any memos issued by the department for unauthorised absence of W.W. 1 to establish the absenteeism of W.W. 1 during the period he worked in the department. Moreover it is not the case of M.W. 1 during his evidence that the absence of W.W. 1 during January, 1986 to April, 1986 was unauthorised absenteeism. Whatever it may be to establish the case of the respondent that Ex. W16 notice of termination was issued to the petitioner for the reason of his unauthorised absenteeism and frequent absenteeism which reason was not mentioned in Ex. W16. The respondent did not choose to adduce any oral evidence by examining the concerned officers who worked during the relevant period to speak about the absenteeism of W.W. 1, besides not producing any documentary evidence to that effect as stated by me earlier. Ex. M3 is a document prepared on 8-8-90 which is long subsequent to the issue of Ex. W16 termination notice and also long subsequent to the reference made to this Court. In Ex. M3 the periods of absence of W.W. 1 were noted, that no data for the preparation of Ex. M3 was given in Ex. M3. It is not known as to how the different periods of absenteeism of W.W. 1 from 30-4-81 to 15-4-86 were arrived at i.e. either extracting from the attendance register or from the wages registers or any other documents. The failure of producing the attendance and wages registers and any other documentary evidence to establish the absenteeism of W.W. 1 from attending duty during the different periods as mentioned in Ex. M3, goes against the propriety of the case of the respondent that W.W. 1 absented from attending duty during the periods as noted in Ex. M3 and so I am of opinion that Ex. M3 does not assume any importance and it does not warrant to place of reliance on Ex. M3 for deciding the fact of the absenteeism of W.W. 1 from attending the duty during the periods noted in Ex. M3, particularly when the respondent did not produce attendance registers and wages registers available in its custody. So in view of the facts brought on record it is clear on question of the fact, that W.W. 1 continuously and uninterruptedly worked for more than 240 days during all the years of his service and particularly within 12 calendar months immediately prior to the termination of his service, as per the provisions of Section 25-B of the I.D. Act. There cannot be any dispute that casual worker is a workman as defined under Section 2(s) of the I.D. Act, in view of the pronouncements of various High Courts and Supreme Court. The question that raised by the respondent is that the part-time employee cannot come under the definition of 'workman' as defined under Section 2(s) of the I.D. Act. I am not able to agree with this contention of the learned counsel for the respondent. As seen from the appointment order in Ex. W6 dt. 4-2-1978 the petitioner and two others were appointed on monthly wages and the petitioner continued in service till he was terminated from service as per the order in Ex. M1 dt. 24-5-86. Simply because the petitioner is appointed as part-time employee, it cannot be said that he does not come under the definition of 'workman' as defined in Section 2(s) of the I.D. Act. As seen from Ex. W6 appointment order, it is not stated that the petitioner and two others appointed under the said order were appointed as casual or temporary part-time employees except stating that their services are liable for termination at any time without assigning any reasons. W.W. 1, having ser-

ved the respondent-department for more than 8 years continuously it is to be construed that the clause incorporated in Ex. W6 appointment order that his services are liable for termination at any time without assigning any reasons, is of no value in view of the fact that W.W. 1 completed 240 days of service during the period of 12 calendar months, preceding date of his termination from service, as contemplated under Section 25-B(2) of the I.D. Act. In view of the fact that it was not mentioned in Ex. W6 appointment order that he was appointed as temporary or casual part-time worker or as contingent worker, it cannot be said in my opinion that W.W. 1 is not a workman as defined under Section 2(s) of the I.D. Act, particularly when nothing is stated in Section 2(s) about the definition of 'workman' distinguishing between the full time employee and part-time employee. So in view of my above discussion, I hold that petitioner would squarely come under the definition of 'workman' as defined under Section 2(s) of I.D. Act. Admittedly except issuing one month's notice in Ex. W16 no retrenchment compensation was paid to the petitioner at the time of terminating his services, as per Ex. M1 termination order, which was admittedly not served on the petitioner on 24-5-1986, though it is stated by M.W. 1 in his deposition that the petitioner bluntly refused to receive Ex. M1 order. The refusal of receiving the order in Ex. M1 by the petitioner and the endorsement of 'refusal' written on Ex. M1 is not established by the respondent by examining the concerned officer, who attempted to serve Ex. M1 on the petitioner and wrote the refusal endorsement on Ex. M1. Whatever it may be, it is admitted case of respondent and M.W. 1 that except his wages, no other amount was paid to the petitioner at the time of termination. So it is clear from the evidence available on record that no terminal benefits are paid to the petitioner at the time of terminating his services as per Ex. M1 termination order as contemplated under Section 25-F of the I. D. Act. It is not the case of the respondent that the services of the petitioner were terminated for want of vacancy. On the other hand it is clearly stated in Ex. M3 that "meanwhile DET-Guntur happened to appoint one regular sweeper under SDOP. Tenali pida DET-GTR letter No. G25/Gr. D/84-85/XXIII/143 dated at Guntur the 25-4-1986 with instructions to SDO Phones to remove P/T officials engaged in this place after issuing one month notice." So it is clear from the contents of Ex. M3 that the petitioner was not removed for want of vacancy and on the other hand it is clear that another person was appointed as regular sweeper by the order dt. 25-4-86 i.e. from the next day of issue of Ex. W16 termination notice to the petitioner and continuing the petitioner in service till the expiry of notice period i.e. 24-5-86. In view of the facts and circumstances of the case it is clear that the termination of the petitioner from service amounts to retrenchment as defined in Section 2(o) of I.D. Act. So the retrenchment without complying, with the conditions laid down in Section 25-F of the I.D. Act, is not valid. The reasons for retrenchment should be indicated in the one month's notice given to the petitioner, as contemplated under Section 25-F(a). As pointed out by me earlier, no reasons were assigned in Ex. W16 termination notice issued by the respondent to the petitioner except stating that his services as par-time sweeper-cum-waterman are going to be terminated with effect from 24-5-1986, which amounts to arbitrary exercise of the power of the concerned authority and so I am of opinion that Ex. W16 notice is not a valid notice under Law. Nothing is brought on record by the respondent to show that the notice in the prescribed manner is served on the appropriate to Government (or such authority as may be specified by the appropriate Government by notification in the official gazette), as contemplated under Section 25-F (c) of the I. D. Act. Admittedly no compensation was paid to the petitioner at the time of retrenchment as contemplated under Section 25-F(b) of the I.D. Act. So it is clear from the evidence brought on record that the conditions laid down in Section 25-F of the I.D. Act are not complied with before retrenching W.W. 1 from service. So in view of my above discussion the retrenchment of W.W. 1 is liable to be set aside and the petitioner-workman is entitled for reinstatement into service with full back wages. Hence I answer the point accordingly.

8. In the result an award is passed directing the respondent to reinstate the petitioner-workman into service forthwith full pack wages. The respondent is further directed to pay the back wages to the petitioner within one month from the date of publication of this Award, failing which

the petitioner is entitled to realise the same with interest at 12% per annum from the date of this award till the date of realisation. There will be no order as to costs.

Dictated to the steno-typist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 19th day of December, 1991.

G. KRISHNA RAO, Industrial Tribunal

[No. L-40011/20/88-D.II(B)(Pt)]

APPENDIX OF EVIDENCE

Witness examined on behalf of the petitioner-workman Witness examined on behalf of the respondent-management

W.W.1 M.M. K. Brahmaji M.W. 1 P. Bhaskar Rao
Documents marked for the petitioner-workman

- Ex. W1 19-4-77—Order dt. 19-4-77 issued by Sub-Divisional Officer, Telegraphs, Tenali to M. M. K. Brahmaji to work as mazdoor in the construction and maintenance parties of Tenali Telegraphic Sub-Division.
- Ex. W2 6-5-77—Service certificate dt. 6-5-77 issued to M. M. K. Brahmaji by the sub-divisional officer, Telegraphs, Tenali, showing that M.M.K. Brahmaji has worked for 33 days in April, 1977 and May 1977 respectively as Mazdoor.
- Ex. W3 18-2-82—Service certificate dt. 18-2-82 issued to M. M. K. Brahmaji by the Sub-divisional Officer, Telegraphs, Tenali, showing that M. M. K. Brahmaji worked for 114 days as casual labour.
- Ex. W4 dt. Nil.—Interview letter dt. Nil issued to M. M. K. Brahmaji by the Sub-divisional Officer, Telegraphs, Tenali for appointment of Part time posts of Tenali and Ponnur.
- Ex. W5 3-2-78—Order dt. 3-2-78 issued to M.M.K. Brahmaji by the Sub-divisional Officer, Telegraphs, Tenali, selected him as part-time employee.
- Ex. W6 4-2-78—Appointment order dt. 4-2-78 issued to M.M.K. Brahmaji by the Divisional Officer, Telegraphs, Tenali, appointing him as part-time sweeper-cum-waterman.
- Ex. W7 4-2-78—Office Order No. 7, dt. 4-2-78 issued to M.M.K. Brahmaji by the S.D.O. Telegraphs, Tenali with regard to duty hours of M. M. K. Brahmaji.
- Ex. W8 30-3-78—Termination order dt. 20-3-78 issued to M.M.K. Brahmaji by the Sub-divisional Officer, Telegraphs, Tenali.
- Ex. W9 21-3-78—Appointment order dt. 21-3-78 issued to M.M.K. Brahmaji by the Sub-divisional Officer, Telegraphs, Tenali.
- Ex. W10 27-1-82—Transfer and posting order dt. 27-1-82 issued to M.M.K. Brahmaji by the S.D.O. Phones, Tenali.
- Ex. W11 10-12-88—Letter dt. 10-12-88 addressed to M.M.K. Brahmaji by Divl. Engineer, Telecommunications, Guntur with regard to selection of Group 'D' Official non-test category.
- Ex. W12 24-12-82—Service certificate dt. 24-12-82 issued to M.M.K. Brahmaji by the Sub-Divisional Officer, Telephones, Tenali.
- Ex. W13 30-7-83—Service certificate dt. 30-7-83 issued to M.M.K. Brahmaji by the Sub-Divisional Officer, Telephones, Tenali.
- Ex. W14 26-4-86—Photostat copy of the request letter dt. 26-4-86 addressed to the Divisional Engineer, Telecom, Guntur with regard to conversion into casual mazdoors.

- Ex. W15 21-6-85—Service certificate dt. 21-6-85 issued to M.M.K. Brahmaji by the Sub-Divisional Officer, Telephones, Tenali.
- Ex. W16 24-4-86—Termination order dt. 24-4-86 issued to M.M.K. Brahmaji by the Divl. Officer, Telephones, Tenali-I.
- Ex. W17 25-4-86—Photostat copy of the request letter dt. 25-4-86 addressed to the D.E. Telephones, Guntur by M.M.K. Brahmaji for conversion into casual labour from part-time.
- Ex. W18 28-5-86—Representation dt. 28-5-86 made by M.M.K. Brahmaji to the Assistant Labour Commissioner, (Central) Vijaywada.
- Ex. W19 19-8-86—Letter dt. 19-8-86 addressed to M.M.K. Brahmaji by the Asst. Labour Commissioner (C) Vijayawada with regard to representation dt. 28-5-86 made by M.M.K. Brahmaji.
- Ex. W20 17-8-87—Representation dt. 17-8-87 made in Telugu by M.M.K. Brahmaji to the Asst. Labour Commissioner, Vijayawada requesting to dispose of his case immediately.
- Ex. W21 2-11-87—Photostat copy of the letter dt. 2-11-87 addressed to the Asstt. Labour Commissioner (C) Vijaywada by M.M.K. Brahmaji with regard to letter dt. 19-8-86 of Asstt. Labour Commissioner (C) Vijayawada.
- Ex. W22 12-11-87—Letter dt. 12-11-87 addressed to the Sub-Divisional Officer, Telephones Tenali by M.M.K. Brahmaji with regard to submission of attestation forms for regular absorption in the department.
- Ex. W23—Photostat copy of attestation forms along with annexure of M.M.K. Brahmaji.
- Ex. W24 22-11-87—Representation dt. 22-11-87 made by M.M.K. Brahmaji to the Asstt. Labour Commissioner (C) Vijaywada with regard to re-instatement into service.
- Ex. W25 7-5-88—Representation dt. 7-5-88 in Telugu made by M.M.K. Brahmaji to the Asstt. Labour Commissioner (C) Vijayawada with regard to re-instatement into service.
- Ex. W26 30-8-89—Failure of conciliation report dt. 30-8-89 alongwith minutes of conciliation proceedings.
- Ex. W27 14-1-89—Photostat copy of the representation dt. 14-1-89 made by M.M.K. Brahmaji to the Secretary, Ministry of Labour, Govt. of India, New Delhi with regard to his illegal termination.
- Ex. W28 30-11-88—Photostat copy of the letter No. TA/STA/9-1-/Regs/V dt. 30-11-88 of the Chief General Manager, Telecom, Hyd-I with regard to regularisation of casual labourers.
- Ex. W29—Copy of the establishment jurisdiction and functioning of the central administrative Tribunal.
- Ex. W30—Photostat copy of the regularisation of casual employees in Group 'D' Posts
- Ex. W31 31-3-87—True copy of the regularisation of casual mazdoors having 7 years of service as on 31-3-87

Documents marked for the management

- Ex. M1 24-5-86—Carbon copy of the termination order dt. 24-5-86 issued to M.M.K. Brahmaji by the Sub-Divisional Officer, Telephones, Tenali.
- Ex. M2 26-5-86—Carbon copy of the letter dt. 26-5-86 of Junior Engineer, Trunk Exchange Tenali to the Sub-Divisional Officer, Phones, Tenali with regard to refuse to receive termination order by M.M.K. Brahmaji.
- Ex. M3—Brief remarks of the termination case of M.M.K. Brahmaji.

Sd/-

Industrial Tribunal, Hyderabad

का.आ. 311.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 अनुसरण में, केन्द्रीय सरकार एस. डी. ओ. (टेलीग्राफ) प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 311.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SDO (Telegraphs) Ajmer and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 55/1991

रेफरेंस: भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक

एल-40012/10/91/आई.आर.डी.यू./विनांक 3-10-91

श्री. रूपचन्द, पुत्र श्री बीजालाल।

—प्रार्थी

बनाम

उपमंडल अधिकारी (तार) अजमेर।

—प्रार्थी

उपस्थिति :

प्रार्थी की ओर से : कोई हाजिर नहीं
प्रार्थी की ओर से : कोई हाजिर नहीं
विनांक अवधि : 20 नवंबर, 1991

अवधि

फरीकन की ओर से कोई हाजिर नहीं आया। आज प्रार्थी को स्टेट-मेंट ऑफ क्लेम पेश करने हेतु केस नियत है किंतु न तो कोई क्लेम पेश हुआ है और प्रार्थी की ओर से कोई हाजिर आया। ऐसा प्रतीत होता है कि प्रकरण में रुचि नहीं ले रहे हैं अतः प्रकरण में नो डिस्प्यूट अवधि परित किया जाता है जो केन्द्र सरकार को नियमानुसार प्रकाशनार्थ भेजा जावे।

जगत सिंह, पीठासीन अधिकारी

[सं. एल-40012/10/91-आई.आर. (डी. २) (पार्टे)]

का.आ. 312.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 अनुसरण में, केन्द्रीय सरकार एस. डी. ओ. (फोन) अजमेर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 312.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SDO (Phones) Ajmer and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 54/1991

रेफरेंस: भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक

एल-40012/3/91 आई.आर.डी.यू. दि. 27-9-91

श्री बुध सिंह व अन्य द्वारा आईएस प्रेसिडेंट बी.एम.एस. 17/161, पुरान मंडी, अजमेर।

—प्रार्थी

बनाम

सब डिप्टी जनरल ऑफिसर (फोन), अजमेर।

—प्रार्थी

उपस्थिति :

यूनिथन की ओर से : कोई हाजिर नहीं
प्रार्थी की ओर से : कोई हाजिर नहीं
विनांक अवधि : 15-11-1991

अवधि

फरीकन की ओर से कोई हाजिर नहीं है। आज प्रार्थी यूनिथन को को स्टेट ऑफ क्लेम पेश करना है किंतु न तो कोई उपस्थित आया और न ही कोई क्लेम पेश हुआ। ऐसा प्रतीत होता है कि यूनिथन अब इन मामलों में रुचि नहीं रखती, अतः प्रकरण में नो डिस्प्यूट अवधि परित किया जाता है जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जगत सिंह, न्यायाधी 21

[सं. एल-40011/3/91-आई.आर. (डी.यू.) (पार्टे)]

का. आ. 313.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरदर्शन केन्द्र जयपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 313.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Door-darshan Kendra, Jaipur and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 95/1989

रेफरेंस: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रमांक

एल - 42012/133/88 डी-2 (बी) विनांक 11-8-89

सीताराम शीणा

—प्रार्थी

बनाम

सहा निदेशक, दूरदर्शन केन्द्र, नई दिल्ली

निदेशक दूरदर्शन केन्द्र छायाणा इंग्लो, जयपुर।—प्रार्थी

उपस्थिति :

प्रार्थी की ओर से : कोई हाजिर नहीं
विपक्षी की ओर से : श्री यू. डी. शर्मा
विनांक अवधि : 25-10-91

अवार्ड

श्री यू. डी. शर्मा विपक्षी की ओर से उपस्थित आये। प्रार्थी की ओर से कोई हाजिर नहीं है न ही उनके प्रतिनिधि हाजिर आये। आज प्रार्थी की शहादत पेश करने के लिए यह केस निर्वाचित था किन्तु कोई शहादत भी हाजिर नहीं है। ऐसा लगता है प्रार्थी अब इस मामले में रुचि नहीं रखता है इसलिए न तो शहादत पेश की गई न प्रार्थी स्वयं अथवा कोई प्रतिनिधि उपस्थित हुआ। अतः प्रकरण में नो डिस्म्यूट अवार्ड पारित किया जाता है जो भारत सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जगत सिंह, पीठासीन अधिकारी

[सं. एल- 42012/133/88- डी II (बी) (पार्टे)]

का. आ. 314.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमाण्डर वर्क्स, इजीनियर, एम. ई. एस., जयपुर के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 314.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Commander Works Engineer, MES, Jaipur and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. 52/1991

रैफरेंस: भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल - 1401/11/91 - आई. आर. डी.

महा सचिव, एम. ई. एस. वर्क्स यूनियन, सी. डब्ल्यू. ई. 82/5, एम. ई. एस. कालोनी, नसीराबाद जिला अजमेर।

--प्रार्थी

बनाम

कमाण्डर वर्क्स इजीनियर, एम. ई. एस. जयपुर।--प्रार्थी

उपस्थित :

प्रार्थी यूनियन की ओर से : कोई हाजिर नहीं है
नियोजक की ओर से : कोई हाजिर नहीं
दिनांक अवार्ड : 14-11-91

अवार्ड

पक्षकारों के प्रतिनिधि हाजिर नहीं हैं। आज यह केस यूनियन की ओर स्टेटटमेंट आफ क्लेम पेश करने हेतु नियत था किन्तु ना तो कोई स्टेटटमेंट आफ क्लेम पेश हुआ और न ही यूनियन की ओर से अदालत में कोई उपस्थित आया। ऐसा लगता है कि यूनियन अब इस मामले में रुचि नहीं रखती है, अतः इस प्रकरण में नो डिस्म्यूट अवार्ड पारित किया जाता है जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जगत सिंह, पीठासीन अधिकारी

[सं. एल - 14011/1/91 - आई आर (डी यू) (पार्टे)]

का. आ. 315—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी पी डब्ल्यू. डी.

91/GI/92—13

जयपुर प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 315.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of CPWD, Jaipur and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी. आई. टी. 57/90

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या: एल.

42011/42/89 आई. आर. (डी. 1) दिनांक 20-8-90

सी. पी. डब्ल्यू. डी. मजदूर यूनियन, जयपुर।

बनाम

सी. पी. डब्ल्यू. डी., जयपुर।

उपस्थिति :

यूनियन की ओर से : कोई हाजिर नहीं
विपक्ष की ओर से : कोई हाजिर नहीं
दिनांक अवार्ड : 11-6-91

अवार्ड

फरीकेन की ओर से कोई हाजिर नहीं है। आज यूनियन को स्टेटमेंट आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है और ना ही क्लेम पेश किया है यूनियन को दिनांक 30-10-90 को निरन्तर क्लेम पेश करने के लिए अवसर दिया जा रहा है अब समय दिया जाना उचित नहीं है अतः इस प्रकरण में नो डिस्म्यूट अवार्ड पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

जगत सिंह, न्यायाधीश

[सं. एल. - 42011/42/89 - आई आर (डी यू) (पार्टे)]

का. आ. 316.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. अजमेर, के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था।

S.O. 316.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of C.P.W.D., Ajmer and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर।

केस नं. सी. आई. टी. 35/1991

रैफरेंस: भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-42014/65/90-आई. आर. (डी. यू.) दिनांक 9-5-91

श्रीहरीसिंह, बेलदार

--प्रार्थी

बनाम

सेन्ट्रल पब्लिक वर्क्स डिपार्टमेंट, अजमेर ।

—प्रप्राप्ति

उपस्थिति :

प्राप्ति की ओर से : कोई हाजिर नहीं
 अप्राप्ति की ओर से : कोई हाजिर नहीं
 दिनांक अवार्ड : 30-8-91

अवार्ड

दोनों पक्षों के प्रतिनिधि हाजिर नहीं हैं । आज प्राप्ति को स्टेटमेंट आफ क्लेम पेश करना है लेकिन प्राप्ति की ओर से न तो कोई उपस्थित आता और ना ही स्टेटमेंट आफ क्लेम पेश किया गया जबकि प्राप्ति को क्लेम पेश करने के लिए दिनांक 5-6-91 से ही निरंतर समय दिया जा रहा है, अब और समय दिया जाना उचित प्रतीत नहीं होता । अतः इस प्रकरण में अवम वीरवी में नो डिस्पूट अवार्ड पारित किया जाता है जो भारत सरकार को नियमानुसार प्रकाशनार्थ भेजा जावे ।

जगत सिंह, पीठासीन अधिकारी

[सं. एन-42012/65/90-आई आर (बीयू) पार्ट्स]

का.आ. 317:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुपरिन्टेंड पोस्ट आफिस जयपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था ।

S.O. 317.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Supdt., Post Office, Jaipur and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर ।

केस नं. सी. आई.टी. 110/89

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या : एन. 40012/48/88/डी-2 (बी) दि. 23-10-89 गिरिराज प्रसाद गुप्ता द्वारा श्री आर. सी. जैन, भारतीय मजदूर संघ, जयपुर ।

बनाम

सुपरिन्टेंड पोस्ट आफिस, जयपुर मुफस्सिल डिबीजन, जयपुर ।

उपस्थिति :

श्रमिक पक्ष की ओर से : कोई हाजिर नहीं
 नियोजक पक्ष की ओर से : कोई हाजिर नहीं
 दिनांक अवार्ड : 21-5-91

अवार्ड

फरीकेन की ओर से कोई हाजिर नहीं है । आज प्राप्ति को स्टेटमेंट आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है । प्राप्ति को दिनांक 22-12-89 से निरंतर क्लेम पेश करने के लिए अवसर दिया जा रहा है अब समय दिया जाना उचित नहीं है ऐसा प्रतीत होता है कि इस प्रकरण में प्राप्ति रुकी नहीं से रहा है अतः इस प्रकरण में नो डिस्पूट अवार्ड पारित किया जाता है जिसे प्रकाशनार्थ केन्द्र सरकार को भेजा जावे ।

जगत सिंह, न्यायाधीश

[सं. एन. 40012/48/88-डी.-II (बी) पार्ट]

का.आ. 318:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम रेलवे, जयपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था ।

S.O. 218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of DRM, Western Railway, Jaipur and their workmen, which was received by the Central Government on 1-1-92.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर ।

केस नं. सी.आई.टी. 72/89.

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या : एन. 41011/9/88-डी-2 (बी.) दि. 19-7-89.

मन्षिव, पश्चिम रेलवे कर्मचारी यूनियन, जयपुर ।

बनाम

डिबीजनल रेलवे मैनेजर, पश्चिमी रेलवे, जयपुर ।

उपस्थिति :

यूनियन की ओर से : कोई हाजिर नहीं
 नियोजक की ओर से : कोई हाजिर नहीं
 दिनांक अवार्ड : 22-4-91

अवार्ड

फरीकेन की ओर से कोई हाजिर नहीं है । आज यूनियन को स्टेटमेंट आफ क्लेम पेश करना है लेकिन कोई हाजिर नहीं है और ना ही क्लेम पेश किया है यूनियन को दिनांक 12-9-89 से क्लेम पेश करने के लिए अवसर दिया जा रहा है अब समय दिया जाना उचित नहीं है, अतः इस प्रकरण में नो डिस्पूट अवार्ड पास किया जाता है जो केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे ।

जगत सिंह, न्यायाधीश

[सं. एन. 41011/9/88-डी-2 II (बी) पार्ट]

के.बी.बी. उष्णी, डेस्क अधिकारी

नई दिल्ली, 10 जनवरी, 1992

का.आ. 319:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी.सी.सी. एन. की गोविन्दपुर, कोलियरी के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-1-92 को प्राप्त हुआ था ।

New Delhi, the 10th January, 1992

S.O. 319.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the

Central Government Industrial Tribunal (No. I), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management Govindpur Colliery of M/s. BCCCL and their workmen which was received by the Central Government on 1-1-1992.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under sec. 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 64 of 1989.

PARTIES :

Employers in relation to the management of Govindpur Colliery of Area No. III of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra,
Presiding Officer.

APPEARANCES :

For the Employers : Shri B. Joshi, Advocate.
For the Workmen : Shri D. Mukherjee, Secretary,
Bihar Colliery Kamgar Union.

STATE : Bihar. INDUSTRY : Coal.
Dated, the 8th December, 1991.

AWARD

By Order No. L-20012/5/88-D.IV(A)/I.R. (Coal-I) dated, the 24th May, 1989, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Govindpur Area No. III of M/s. Eharat Coking Coal Limited, Post Sonardih, Dist. Dhanbad in dismissing Shri Rajandan Singh is justified? If not, to what relief the workman is entitled?”

2. The case of the management of M/s. B.C.C. Ltd. as disclosed in the written statement-cum-rejoinder details apart, is as follows.

The present reference is not legally maintainable. There was no workman named Rajnandan Singh working in Govindpur Area at any time. There was, however, a workman named Ramanand Singh and he described himself as Rajnandan Singh. The union has corrected his name as Ramanand Singh and the facts leading to the dismissal of Ramanand Singh are set forth in the written statement. On 11-5-83 at about 11 a.m. a mob of about 200 persons, armed with deadly weapons, committed several acts of violence on the person of Shri H. N. Tripathy, General Manager of Barora Area. The said mob abused Sri Tripathy

and threatened him with dire consequences within the precincts and premises of his office at Barora. The said mob committed various acts of mischief and caused damage to valuable properties belonging to H. N. Tripathy and the management. Ramanand Singh, a workman of the management of M/s. B.C.C. Ltd. posted at the relevant time at Kharkharee colliery of Govindpur Area, was a member of the above violent mob; he led the violent mob, committed various acts of violence and mischief, instigated and incited the mob to commit various acts of violence, mischief and subversive of discipline. He was issued with a chargesheet dated 12-5-83 and a corrigendum dated 6-7-83 containing detailed allegations with necessary particulars relating to the aforesaid incident of 11-5-1983 under the signature of the Agent of Kharkharee colliery who was the competent authority to issue the chargesheet to him as he was working under his control. Shri J. K. Shukla, the then Dy. Manager (Legal) of M/s. B.C.C. Ltd., Koyla Bhawan, was appointed Enquiry Officer by the Agent of Kharkharee colliery to conduct the departmental enquiry into the chargesheet issued to the concerned workman. The Enquiry Officer fixed the date of enquiry on 12-7-83 by notice dated 7-7-83. The copies of notice were served on all the workmen through Peon Book and notice was also published in the local News Paper ‘Awaz’. In pursuance of the notice of enquiry the concerned workman appeared in the enquiry on 12-7-83 and filed a petition praying for adjournment of the enquiry and change of venue of the enquiry. His prayer was granted and the next date of enquiry was fixed on 19-3-83 at Sijua, away from Barora Area office. Individual notices were sent to all the workmen concerned in the Joint Enquiry. Notice of enquiry was published in the local News Paper having wide circulation, namely ‘Janmat’ and ‘Awaz’. The concerned workman applied for adjournment of the enquiry which was granted and the next date of enquiry was fixed on 27-7-83. Since the concerned workman did not attend the enquiry and did not give any satisfactory reason for his not attending the enquiry, the Enquiry Officer held the enquiry ex-parte on 27-7-83. The chargesheeted workmen deliberately avoided to attend the enquiry as they had committed the misconduct charged against them. The Enquiry Officer submitted his report holding the concerned workman guilty of the misconduct levelled against him. The enquiry report, enquiry proceeding and all other relevant documents were examined at various level and approval for dismissal of the concerned workman from service was obtained from the competent authority. Accordingly, the concerned workman was dismissed from service by letter dated 8-4-1987 for commission of misconducts proved against him in departmental enquiry.

3. The case of the concerned workman, as appearing from the written statement submitted on his behalf by the sponsoring union, Bihar Colliery Kamgar Union, is as follows :

Rajnandan Singh alias Ramanand Singh had been working as permanent workman of Dharmaband colliery, but the erstwhile employer terminated his service. Industrial dispute was raised over his termination of service and award was passed by the Tribunal directing the management to reinstate him in service

with full back wages. The management did not implement the award, but moved the Hon'ble High Court and lastly when the Hon'ble Supreme Court decided the principle involved in the case, it reluctantly reinstated him in service. He is the Vice-President of the sponsoring union, Bihar Colliery Kamgar Union, and the General Manager of Barora Arta (Area No. 1) was very much biased and prejudiced against him. Sri Tripathy is a son of a renowned and respected I.N.T.U.C. Leader, Shri Bhagwat Prasad Tripathy. Sri H. N. Tripathy was convicted in a criminal case for assaulting Shri A. K. Roy. Anyway, with an ulterior motive to victimise the concerned workman and for paying the way for R.C.M.S. Union, the management issued a false and frivolous chargesheet against him for incident allegedly took place on 11-5-83 at 11-00 hours in Barora Area office. On that date three persons died due to criminal negligence of the management in constructing the water reservoir and to abbuscate the real issue Shri Tripathy falsely entangled some persons in a false criminal case to save his skin. At the instance of Shri Tripathy the management of Area No. III issued a false and frivolous chargesheet against the concerned workman. The concerned workman submitted his reply denying the charge. The management held invalid and irregular enquiry in which the concerned workman was not afforded full opportunity to place his case. The Enquiry Officer was biased and prejudiced against the concerned workman and conducted the enquiry ex parte only to complete empty formality, while some of the workman against whom chargesheets were issued were languishing in prison. The Enquiry Officer did not keep the enquiry in abeyance; he conducted the enquiry ex parte. The concerned workman prayed for being represented by Shri D. Mukherjee, but the management refused to entertain his prayer. He also protested against holding of domestic enquiry in view of the fact that for the same charge a criminal case was pending he ignored his protest. Although the charge against him was not established in the irregular and invalid departmental enquiry, the Agent of Kharkharee colliery dismissed him from service by letter dated 8-4-87. According to the sponsoring union, the departmental enquiry was not held fairly and properly.

4. In rejoinder to the written statement of the sponsoring union, the management has denied and disputed the fact that the services of the concerned workman were terminated by the erstwhile management. The management has also denied that Sri H. N. Tripathy was very much biased and prejudiced against the concerned workman for his trade union activities. As a matter of fact Shri A. K. Roy who became a candidate for parliament election instituted a false case against H. N. Tripathy and by producing false witness got him convicted by the lower court. The Hon'ble High Court set aside the conviction passed by the lower court. Shri A. K. Roy did not stop at that stage and set his followers to lead a violent mob on the same pretext and to kill H. N. Tripathy, the then General Manager of Barora Area. It has been asserted that the chargesheet was not false and frivolous. The chargesheet was issued on the basis of complaint from H. N. Tripathy, but it was not issued at his instance as alleged by the union. The allegation against the Enquiry Officer and criticism against the

manner of enquiry are incorrect and the enquiry was held ex-parte as the concerned workman deliberately avoided the enquiry.

5. In rejoinder to the written statement of the management, the sponsoring union has stated that the management dismissed the concerned workman Ramanand Singh alias Rajnandan Singh from service. Hence the plea raised by the management that there was no workman named Rajnandan Singh working in Govindpur Area at any time is false. The union has denied and disputed each and every allegation of the management impinging on the conduct of the concerned workman and asserted that the chargesheet and corrigendum are illegal and contrary to the provisions of the Standing Orders. It has been alleged that the Enquiry Officer submitted his report against the concerned workman at the instance of the management and that the concerned workman was dismissed from service illegally and arbitrarily by an unauthorised person. Even then the charge against him was not established in the departmental enquiry.

6. At the instance of the management the propriety and fairness of domestic enquiry was considered as preliminary issue. In the course of hearing of the preliminary issue the management examined Shri R. K. P. Srivastava, posted to Kharkharee Colliery as Dy. Personnel Manager since 1987 as MW-1 and laid in evidence the entire proceedings of domestic enquiry including the chargesheet and other documents which were marked Exts. M-1 to M-15/3. The management also produced the order passed by the Presiding Officer, Central Govt. Industrial Tribunal No. 2, Dhanbad in Reference No. 138 of 1985.

On the other hand, the concerned workman examined himself and placed on record the deposition of H. N. Tripathy (M. W-2) in Central Govt. Industrial Tribunal No. 2, Dhanbad.

7. Admittedly, Ramanand Singh alias Rajnandan Singh was working as General Clerk in Kharkharee Colliery of M/S. B. C. C. Ltd. in 1983. There is no dispute that Kharkharee Colliery falls within the jurisdiction of Govindpur Area (Area No. 111) of M/S. B. C. C. Ltd. and that H. N. Tripathy was the General Manager of Barora Area (Area No. 1) of M/S. B. C. C. L. in 1983.

8. According to the case of the management on 11-5-83 at about 11 am, a mob of about 200 persons armed with delay weapons committed several acts of violence on the person of H. N. Tripathy, General Manager of Barora, area abused and threatened him with dire consequences within the precincts and premises of his office at Barora and that the said mob committed various acts of mischief and caused damage to valuable properties belonging to Sri H. N. Tripathy and the management. It has been alleged by the management that Ramanand Singh, the concerned workman was a member of that violent mob. led the violent mob committed various acts of violence and mischief, instigated and incited the mob to commit various acts of violence, mischief and subversive of discipline. As a consequence he was issued with a chargesheet dated 12-5-1983 and corrigendum dated 6-7-83 contain-

ing the details of allegations with necessary particulars relating to the aforesaid incident of 11-5-83 under the signature of the Agent of Kharkharee colliery.

The case of the concerned workman, as disclosed in the written statement of the sponsoring union is that on 11-5-1983 three persons met their end due to criminal negligence of the management in constructing the water reservoir and to obfuscate the real issue, Shri H. N. Tripathy, General Manager of Barora Area falsely entangled the concerned workman and others in false cases in order to save his own skin. Anyway, it appears that a chargesheet dated 21-5-1983 (not 12-5-83 as stated in the written statement of the management was issued against the concerned workman by the Agent of Kharkharee colliery narrating occurrence allegedly happened on 11-5-83 at about 11.00 hours within the precincts and premises of Barora Area Office and alleging various acts of misconduct by the concerned workman and others. The relevant portion of the chargesheet is gleaned herein below :

“To

Shri Ramanand Singh,
Designation—General Clerk,
Colliery—Kharkharee Colliery.

CHARGES

- (1) That on 11-5-1983 at about 11.00 hours you along with other persons led a violent mob of about 200 persons armed with lathies, Bhallas, Bows and arrows and other lethal weapons into the office premises of office of the General Manager, Barora Area and trespassed into the said office with criminal intentions of assaulting/killing managerial personnel/officers.
- (2) That the violent and armed mob as referred to in Charge No. (i) above on the date and time indicated therein led by you and others wanted to murder/kill Sri H. N. Tripathy, General Manager, Barora area and the person in the mob led by you and other persons were shouting slogans and holding out threats such as H. N. Tripathy KO KAT DO. MAR DO. KHOON KA BADLA KHOON SEILENGA, etc. and the mob was determined to indulge in and commit the acts as reflected by the said slogans and threats under your instigation and leadership, besides of some others.
- (3) That at about 11.15 hours on 11-5-83 when Shri H. N. Tripathy, General Manager, Barora Area, reached the Barora Area Office in his Car No. BHR-1374, the mob led by you and others assaulted him with lathis on his head by way of implementation of the threats referred in charge No. (2) above, which resulted in bleeding injuries to Shri H. N. Tripathy. Shri Tripathy had to be admitted in Loyabad Hospital for medical air/treatment for the serious injuries received by him by the brutal attack on him.

- (4) That the same time on 11-5-83 and at the same place, i.e. office of the General Manager, Barora Area Office, as referred to in charge No. (3) above, for violent mob led by you and others assaulted Sri K. K. Khadia, Area Manager (Technical), Barora Area, Shri K. L. Bhardwaj, Inspector, C.I.S.F., Shri Ser Singh, Havildar, C.I.S.F. and Bhim Barhi who rushed to the rescue of Shri H. N. Tripathy and to save him from being killed by the irate and violent mob led by you and others, attacked and assaulted them with the result that they also received injuries. Shri K. K. Khadia had to be admitted in Loyabad Hospital of BCCL for medical aid/treatment for the injuries received by him.
- (5) That on 11-5-83 at the time and place as indicated in charge No. (3) above, Shri H. N. Tripathy fell down due to the brutal attack on him by the violent and armed mob led by you and other persons on the stair case, the mob made a further attack on him and tried to pull him down by holding his leg with a view to killing him. On account of the brutal attack on him, Shri H. N. Tripathy became unconscious for some time and during the incident, he lost his chappals and his spectacles were broken.

2. The aforesaid acts are PRI A FACIE acts subversive of discipline and constitute act of misconduct as indicated below and even otherwise considering what is misconduct has to be reasonably construed.

- S.O. 17(i)(e)—fighting, riotous and disorderly behaviour at the premises of the office (office of the G. M., Barora Area).
- S.O. 17(i)(r)—Threatening, abusing or assaulting any superior or co-worker.
- S.O. 17(i)(t)—Preaching of or inciting to violence.
- S.O. 17(i)(q)—Attempt to murder/kill, voluntarily causing hurt/grievous hurt, assault, use of criminal force, house trespass after preparation for hurt and assault, abetment of the said offences etc. All these fall within the scope of IPC and are offences thereunder, IPC being one of the other Acts as referred to in this particular clause of the standing orders which says that any breach of the Mines Act, 1952 or any other Act or any Rules, Regulations, bye-laws thereunder or of any standing orders is misconduct.” (Ext. M-1).

Although the written statement of the management discloses that a corrigendum dated 6-7-83 was issued, it has not been placed on record. Nevertheless, the fact remains that a corrigendum to the chargesheet was issued as it was admitted in the letter of the concerned workman to the Enquiry Officer dated 19-7-1983 (Ext. M-9).

The pleading of the management discloses that the chargesheet was issued to the concerned workman on the basis of complaint from Sri H. N. Tripathy. But this complaint has not been produced other in the domestic enquiry or before this Tribunal.

The pleading of the management is conspicuously silent as to whether any written explanation to the chargesheet was submitted by concerned workman. The sponsoring union has emphatically stated in para 10 of the written statement that the concerned workman submitted his reply to the chargesheet denying the charges emphatically and that the explanation submitted by the concerned workman was satisfactory. The management has not denied in its rejoinder that the concerned workman submitted his reply to the chargesheet, but has denied that the reply to the chargesheet was satisfactory.

The Enquiry Officer in his report (Ext. M-3) has gleaned some portion of the reply of the concerned workman to the chargesheet which reads as follows :

"The reply of Sri Ramanand Singh alias Sri Rajnandan Singh to the chargesheet is that the chargesheet dated 21-5-1983 was vague and cumbersome and it is difficult for a workman to rely. That the Kharkharee Colliery has got its own Standing Orders and so he could not be chargesheeted under the provisions of Model Standing Orders. He had also stated in his reply that the incident took place allegedly at General Manager Barora Area Office whereas he was working in Gobindpur Area so legally no chargesheet can be issued against him for the alleged offence in Barora Area Office.

He also stated that the clauses of Model Standing Orders as quoted in the chargesheet are wrong and so it was difficult for him to submit his reply. He has stated that only allegation against him was for abetting alongwith others in specified alleged mob and so all the clauses quoted in the Chargesheet are irrelevant and not applicable. He has denied all the charges levelled against him. Finally he has requested for withdrawal of the chargesheet and suspension order. Besides above, he has also stated several other facts which are nothing to do with the chargesheet."

Thus, it is evident that the concerned workman has denied all the charges levelled against him.

9. The concerned workman was dismissed from service consequent upon his being found guilty in domestic enquiry in respect of charges of misconduct under the provisions of Model Standing Orders for Industrial Establishments in Coal Mines. It can not be questioned that the Model Standing Orders is a penal statute in the sense it provides that an proof of misconduct penalty including dismissal from service can be imposed. A statute is regarded as penal for the purpose of construction if it imposes ne. penalty or forfeiture. It is a general rule that penal statutes are

to be construed strictly and not extended beyond their clear meaning. In the context of this well settled guideline and legal position, it ought to be examined as to whether the charges against the concerned workman has been proved to the hilt.

10. The concerned workman, as I have stated before, was working as general clerk in Kharkharee Colliery which falls within the jurisdiction to Govindpur Area (Area No. III) of M/s. B.C.C. Ltd. in 1983. The testimony of MW-1 R. K. P. Srivastava discloses that Kharkharee Colliery had no separate Standing Orders and that it is covered by the Model Standing Orders for Industrial Establishment in Coal Mines. Admittedly, the alleged occurrence happened before the office of the General Manager of Barora Area (Area No. I) and chargesheet was issued by the Agent of Kharkharee Colliery which falls within the jurisdiction of Area No. III for occurrence allegedly happened in Barora Area (Area No. I) of M/s. B.C.C. Ltd. Shri D. Mukherjee, Secretary of the sponsoring union had assailed the jurisdiction of the Agent of Kharkharee Colliery to issue chargesheet against the concerned workman for alleged occurrence happened beyond the jurisdiction of Kharkharee Colliery while arguing the case on preliminary issue. Since the concerned workman was working in Kharkharee Colliery and answerable to the Agent of that Colliery for any misconduct committed by him. I overruled the contention of Shri D. Mukherjee and held that the Agent of Kharkharee Colliery was competent to issue chargesheet against the concerned workman.

It appears from the evidence that the Agent of Kharkharee Colliery dismissed the concerned workman from service by letter dated 8-4-87 with immediate effect (Ext. M-4) after taking approval of the General Manager of his Area. The General Managers of different areas have been vested with full power to take disciplinary action including termination removal from service in respect of any employee working within his area (Ext. M-5). But the question is whether the General Manager of Govindpur Area (Area No. III) is vested with any power to approve of any disciplinary action against any workman working in his Area for commission of alleged misconduct happened beyond his area as in the present case, in Barora Area (Area No. I), specially so when there is no linkage between the alleged act of misconduct and employment of the concerned workman in Kharkharee Colliery. In the context of these facts Shri D. Mukherjee has contended that the General Manager of Govindpur Area (Area No. III) is not vested with or has no power to approve of any disciplinary action against the concerned workman by way of dismissal from service for alleged occurrence happened in Barora Area (Area No. I). Regard being had to the facts and legal position, I am constrained to state that the contention of Shri Mukherjee is not entirely unmerited.

11. Now, I will consider the charges against the concerned workman and the evidence laid by the management to prove the same.

The narration of the charges against the concerned workman disclose that on 11-5-83 at about 11.00 hours the concerned workman alongwith other persons led a violent mob of about 200 persons, armed with

lathies, bhallas, bows and arrows and other lethal weapons into the office premises of the office of the General Manager, Barora Area for various illegal acts including trespass with criminal intention of assaulting/killing managerial personnel, shouting slogans and holding out threats. The narration of charges further discloses that the concerned workmen alongwith others led a violent mob which assaulted Sri H. N. Tripathy, General Manager of Barora Area causing him bleeding injury and S/Shri K. K. Khadia, Area Manager (Technical), Barora Area, K. L. Bhardwaj, Inspector, C.I.S.F., Sher Singh, Havildar, C.I.S.F. and Bhim Barhi who rushed to rescue Sri Tripathy and that the violent mob led by him and other persons made a further attack on Sri H. N. Tripathy and tried to pull him down by his leg as a result of which Sri Tripathy became unconscious for some time and lost his chappals and his spectacles were broken. He was charged under clause 17(i) (e) for the misconduct of fighting, riotous and disorderly behaviour at the premises of the office (office of the G. M., Barora Area), under clause 17(i) (r) for misconduct of threatening, abusing or assaulting any superior or co-worker, under 17(i)(c) for misconduct of preaching of or inciting to violence and under 17(i)(q) for attempt to murder/kill, voluntarily causing hurt/greivous hurt, assault, use of criminal force, house trespass after preparation for hurt and assault and assault, abetment of the said offence etc. of all which fall within the I.P.C. and offence thereunder which is one of the said Acts as referred to in the particular Standing Orders.

Thus, upon consideration of the charges levelled against the concerned workman, it is obvious that there is no direct allegation against him for commission of any acts of misconduct as set forth in the chargesheet. The allegation against him is that he led a violent mob of about 200 persons armed with lathies, bhallas, bows and arrows and other lethal weapons. The word 'lead' ordinarily means to guide or direct by persuasion or influence to a course of action. The evidence of witnesses for the management does not at all indicate that the concerned workman by words or by overtacts led the violent mob to commit any acts of mischief or misconduct. Sri H. N. Tripathy, in his statement before the Enquiry Officer, has not stated that the concerned workman led any violent mob or that he (concerned workman) assaulted him in any manner or pulled his leg, although he complained in the F.I.R. (Ext. M-2) that the concerned workman alongwith others assaulted him. It appears that some of the witnesses for the management, such as, S/Shri S. K. Singh, Sales Officer, Barora Area, K. K. Khadia, Area Manager (Technical) and Sher Singh, Head Constable, C.I.S.F. over did themselves when they stated that the concerned workman alongwith others assaulted Shri H. N. Tripathy. From the evidence on record, it has not been proved to the hilt that the concerned workman led a violent mob for committing various acts of violence and mischief tantamount to any misconduct.

12. The circumstances under which an agitated mob collected in the premises of Barora Area office must be underlined here. It is the firm case of the sponsoring union that as a result of criminal negligence on the part of the management in constructing the water reservoir three persons died. In his F.I.R. Shri Tripathy

has stated that there was an unfortunate incident in the morning of 11-5-83 at about 7 O'Clock at Barora Colliery where the water reservoir tank on the ground near the Barora colliery quarters burst causing injury to 4 to 5 persons who were removed to the hospital for treatment. In his statement before the Enquiry Officer, Shri Tripathy has also stated that on 11-5-83 at 6.45 a.m. the Manager, Barora Colliery came to his residence and stated that there was an accident due to bursting of small water tank in Barora residential colony as a result of which one had died and several others were injured. Thus, the fact is established that on 11-5-83 a water tank in Barora colliery had burst causing death of atleast one person and injury to several others. In the circumstances, group of people was agitated and they might have come to Barora Area office in a sullen mood but that does not indicate that the concerned workman either led this agitated people or instigated them to commit various acts of violence and mischief including assault on Sri Tripathy and others.

13. Now, I will consider the charges levelled against the concerned workman count by count with reference to the specific provisions of Model Standing Orders for Industrial Establishments in Coal Mines.

Clause 17(i) (e) of the Model Standing Orders envisages that fighting or riotous, or indecent behaviour while on duty at the place of work is a misconduct. The concerned was, admittedly, an employee of Kharkharee colliery. There is no evidence on record to indicate that he was on duty at the relevant time. That being so, the Agent of Kharkharee colliery was not competent to arraign the concerned workman on a charge on this count for occurrence happened outside the jurisdiction of this colliery.

Clause 17(i) (r) of the Model Standing Orders envisages that threatening, abusing or assaulting any superior or co-worker is a misconduct. The evidence on record does not indicate that the concerned workman had abused or assaulted any superior or co-worker.

Clause 17(i) (t) of the Model Standing Orders envisages that preaching of or inciting to violence is a misconduct. Here also there is no evidence that the concerned workman preached or incited, the mob to commit violence.

Clause 19(i) (q) of the Model Standing Orders envisages that any breach of Mines Act, 1952, or any other Act or any rules, regulations, or by-laws thereunder, or of any standing orders, is a misconduct. The management has comprehended under this clause attempt to murder/kill, voluntarily causing hurt, assault, use of criminal force, house trespass after preparation for hurt and assault abetment of the said offence under I.P.C. as misconduct. There is no evidence that the concerned workman is guilty of any such acts. In my view, the management was not within its right to arraign the concerned workman for commission of offence comprehended under I.P.C. as misconduct for the simple reason that it is not the custodian of general law. Besides, the management has failed to establish the casual connection to provide linkage between the al-

leged act of misconduct of the concerned workman and his employment. Such linkage must be real and substantial, immediate and proximate and not remote and tenuous (1983 Lab. I.C. 1909-Glaxo Laboratories (I) Ltd. Vs. Presiding Officer, Labour Court, Meerut and others).

14. Upon consideration of evidence on record, I come to the inescapable conclusion that the management has failed to prove the charges levelled against the concerned workman, consequently the order of dismissal clamped on the concerned workman on the basis of the report of the Enquiry Officer whereby he was found guilty must be set aside and he should be reinstated in service with full back wages.

15. Before proceeding to render finality to the operative portion of the award, I would like to deal with a peripheral issue. The sponsoring union has stated in its pleading that Sri. H. N. Tripathy was convicted by Criminal Court for assaulting Shri A. K. Roy, President of Bihar Colliery Kamgar Union. In answer to this pleading the management in its rejoinder has stated that Shri A. K. Roy, who became a candidate for parliament election instituted a false case against Sri. H. N. Tripathy and by producing false witnesses got him convicted by the lower court. The Hon'ble High Court set aside the conviction passed by the lower court. Shri A. K. Roy did not stop at that stage and set his followers to lead a violent mob on the some pretext and to kill Shri Tripathy, the then General Manager of Barora Area. There is not a whit of evidence to indicate that Shri A. K. Roy produced false witnesses in the lower Court and that the lower Court, as a captive Court, passed order of conviction on Shri A. K. Roy. Then again, there is no evidence on record that Sri A. K. Roy set his followers including he concerned workman to lead a violent mob on some pretext and to kill Sri. H. N. Tripathy. Such scandalous outpouring by the management in the pleading is not only deplorable but also reprehensible. This highlights the fact that decency and refinement is not the forte of all public sector undertakings like M/s. B.C.C. Ltd. It to say the least, smacks of puerile psychosis and insular culture.

14. The following award is rendered :—

the action of the management of Govindpur Area No. III of M/s Bharat Coking Coal Limited, Post Sonardih, Dist. Dhanbad in dismissing Shri Ramanand Singh alias Rajnandan Singh is not justified. The order of dismissal of the concerned workman from service is hereby set aside and the management is directed to re-instate him in service with full back wages with continuity of service and other benefits with effect from the date of his dismissal from service i.e. 8-4-1987. The concerned workman is directed to report for duty within one month from the date of publication of the award.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer
[No. L-20012/5/88.D.VI(A)|IR(C.I)]

का. भा. :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के प्रचुरण में, केन्द्रिय सरकार, सं. को.सं. सी. एल. का बरारा कोलियरी के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक मधिकरण (सं. 2), धनबाद के पंचवट को प्रकाशित करती है, जो केन्द्रिय सरकार को 30-12-91 को प्राप्त हुआ था।

New Delhi, the 10th January, 1992

S.O. —In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial dispute between the employers in relation the management of Barora Colliery of M/s. B.C.C.L. and their workmen which was received by the Central Government on the 30-12-91.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

REFERENCE NO. 116 OF 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

PARTIES :

Employers in relation to the management of Barora Colliery of Messrs. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the Workmen.—Shri S. Bose, Secretary, R.C.M.S. Dhanbad.

On behalf of the employers.—Shri R.S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 20th December, 1991

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(268)/86-III(A), dated, the 3rd April, 1987.

THE SCHEDULE

“Whether the demand of Rashtriya Colliery Mazdoor Sangh that the management of Barora Colliery of M/s. Bharat Coking Coal Limited should reinstate their workman, Shri Baban Yadav, Line Mistry, who was dismissed from service in November, 1984 with payment of full back wages and other benefits, including subsistence allow-

ance for the period of his suspension, is justified? If so, to what relief is this workman entitled?"

2. The occurrence alleged to have taken place on 11-5-83 at about 11.15 A.M. when the concerned workman led a mob consisting of about 200 persons variously armed with deadly weapons like lathi, bhala, bow and arrows to the office premises of the General Manager, Barora Area with intention to kill Shri H.N. Tripathy, General Manager of the Area. At that very point of time the members of the mob assaulted Shri Tripathy with lathi as a result whereof he sustained bleeding injury and he had to be admitted in Loyabad Hospital. As alleged other officers of the colliery were also assaulted when they were trying to rescue Shri Tripathy. The aforesaid act prima facie constituted an act of misconduct and as a result whereof a chargesheet dated 12-5-83 (Ex. M-1/2) was issued against the concerned workman calling upon him as to why he should not be suitably punished.

3. Shri Baban Yadav the concerned workman submitted reply to the chargesheet wherein he simply denied his presence at the time of alleged occurrence. He stated that he was not present on the said date and time and so the question of his involvement did not arise. He point blank refused to have led any mob armed with deadly weapons. He also denied other allegations including the assault on the person of Shri Tripathy and other officers of the Area. The explanation submitted by him is Ext.M-1/2.

4. The explanation submitted by the concerned workman was considered by the management and it was found quite unsatisfactory and ultimately there was an order for domestic enquiry into the matter. The domestic enquiry was also held and the report submitted. On the basis of that report Ext.M-5 the concerned workman was dismissed from service with effect from 14-11-83. The order of dismissal is Ext.M-3. Ext.M-4 is the order of the Acting General Manager, Barora Area appointing Shri J.K. Shukla, Asstt. Manager, as Enquiry Officer in the matter. Shri J.K. Shukla, Asstt. Manager, Koyala Bhawan, Dhanbad was appointed as Enquiry Officer in the matter.

5. In this case the propriety and fairness of domestic enquiry was taken up as preliminary issue by this Tribunal and it was held that the Enquiry was not fair and proper and not in accordance with the principles of natural justice. In this way the preliminary issue was held against the management and the management was given an opportunity to adduce evidence afresh before the Tribunal.

6. The concerned workman also filed a separate W.S. denying all the allegation levelled against him. Admittedly, the concerned workman was engaged at Barora colliery in the capacity of Line Mistry. It was stated that the office of the General Manager situates at Barora Area which is quite at a long distance from Barora colliery where the concerned workman was engaged in his duty and so the question of his presence near the office of the G.M. does not arise. Again in the W.S. the same plea has been taken that

he was not present at the place of occurrence nor he committed any such offence and he was falsely implicated in the case.

7. The management also filed W.S. justifying the action taken by the management against the concerned workman. The management reiterated its stand taken in the chargesheet and further stated that the concerned workman along with others committed serious act of misconduct such as fighting, riotous and disorderly behaviour at the premises of the office of the General Manager and they had committed assault on the person of Shri Tripathy and others. Accordingly it has been prayed that the workman has got no merit in the case and the reference be answered in favour of the management.

8. It be noted here that the domestic enquiry was held against three workmen including the concerned workmen jointly and the enquiry report was submitted which forms part of Ref. No. 138/85. In that reference two workmen namely Shri Baiju Mahato, Pump Operator and Shri Mundrika Bhuja trammer were involved and the evidence was led from both the sides. In the present reference no evidence afresh has been led from either side and it has been requested rather conceded from both the sides that the evidence available in Ref. No. 138/85 will be the evidence in the present reference. Accordingly it was prayed that the enquiry report and all other materials inclusive of the oral evidence of Ref. 138 of 1985 be used in the present reference.

9. From the evidence of the witnesses from both the sides it is gathered that there was an occurrence immediately, before the present incident when a water tank burst which was constructed by the management for supply of water to the colliery workers. It was stated rather alleged on behalf of the workmen that sub-standard materials were used in the construction of the Water tank under the active patronage of the Area management and the incident took place due to criminal negligence of the management. The workers in general were very much agitated and they had protested against calousness and mis-management of the management. There is different type of statement regarding the number of casualty. According to the management one person died on account of bursting of tank but according to the workman 4 persons had died. I find that on that score there is contradictory statement even in the evidence of the witness of the workmen. Be that as it may that is not the point to be considered at this stage. But from the evidence it is rather fully established that the occurrence took place on account of bursting of water tank.

10. Now the important point for consideration is whether the concerned workman had taken part in the occurrence or not. According to him as alleged in the W.S. as well as reply to the chargesheet he was not present at the spot and so he did not take any such part. FIR is the first document which came into existence immediately after occurrence. In the body

of the FIR the name of the concerned workman along with others has been specifically mentioned as the person who committed assault on the person of Shri Tripathy. Few lines of the FIR may be quoted as follows :—

“Several persons out of the mob assaulted me with lathi on my head which resulted bleeding injury. Shri K.K. Khadia, Shri K.L. Bhardwaj, Shri Sher Singh rushed to save me from being killed from the irate mob who also got injuries on their person. Those who could be spotted assaulting me were Shri Ram Prabesh Singh, Shri R.N. Singh, B.C. Mandal along with Shri Baban Yadav, Mundrika Bhuia and Shri Baiju Mahato and several others.”

At this very stage I may refer to the chargesheet which does not specifically state in so many words that the concerned workman committed assault on the person of Shri Tripathy and others. There is charge that the concerned workman along with others was leading a mob of 200 persons and the mob caused bleeding injury to Shri Tripathy and others. Anyway we find that in the FIR the name of Shri Baban Yadav was specifically mentioned. Besides this there is evidence on behalf of the management and there also the concerned workman has been specifically named. First of all I may refer to the evidence of Shri H. N. Tripathy, MW-2 who has stated that he was hit by lathi blow on his head by Shri Baban Yadav. He received bleeding injuries in his head. He also stated that he was wearing shirt at the time of alleged occurrence and blood had fallen on his shirt. The shirt has been marked material Ext.-1. At this stage the learned counsel for the workmen submitted that the shirt is in very tattered condition which is never expected to have been used by the officer of the rank of the General Manager. It was also pointed out that the shirt is not blood stained nor the alleged blood stains were sent for chemical examination to ascertain whether it was human blood or the blood of some animal. I have looked to the material exhibit which is definitely in tattered condition. Its collar has been torn out. I find no stains of the blood in it. However, I would like to mention here that by long lapse of time blood stain might have disappeared. Apart from that I will go by the deposition. The blood stained shirt has been marked as material Ext.-1 and there is no endorsement to the effect that the shirt was not blood stained. Be that as it may I would also like to mention that this shirt was never seized by the Police nor it was produced from the custody of the Police at the time when it was marked exhibit. In the circumstances the Court is not going to consider all these things. However, I find that the concerned workman has been named in the FIR. He has also been named by the General Manager. I may also refer to the evidence of MW-3 Shri D.K. Singh who had identified a number of persons including the concerned workman who were taking leading part in the mob. So according to this witness also the presence of Shri Baban Yadav as the member of the mob has been affirmed, now coming to MW-4 I find that he was also one of the injured. Shri K.K. Khadia (MW-4) has stated that several persons including the concerned workmen started hitting the

G.M. the sticks and he along with the Security Personnel rushed to the G.M. and gave him protection by covering his body with their own body. In this way we find that the concerned workman has been named by other witnesses also.

11. The learned counsel for the workmen during the course of argument submitted that the mob consisted of about 200 persons as alleged by the management and their witness and in such mob the witnesses are not expected to locate distinctly the assailants. In this respect I would like to mention that Shri H.N. Tripathy was assaulted and so he must be in a position to know and identify the assailant. MW-3 Shri D.K. Singh had seen the occurrence from the distance of fifteen yards. This means he saw occurrence from the very close range and must be in a position to identify the assailant. Shri K.K. Khadia MW-4 is the officer who had come in rescue of Shri H.N. Tripathy. This means he was on the actual spot and therefore he must be in a position to locate assailant.

12. The learned counsel while drawing my attention towards the FIR W-14 has stated that Shri H. N. Tripathy complainant acted like a judge in his own case which was illegal and violative of the principles of natural justice. It was urged that the G. M. in the very body of the FIR wrote separate note directing the Agent, Barora colliery to issue chargesheet with suspension order. The reliance was also placed upon the authority reported in 1984—LIC Supreme Court page 915. That was a case in which the appellant was Senior Clerk in the office of Chief Commercial Superintendent Northern Railway Varanasi. He was dismissed by the Chief Commercial Superintendent on the charge of misconduct in relation to himself and after considering by himself the explanation given by the employee against the charge and after thinking that the employee was not fit to be retained in service. Their Lordships were pleased to hold that the order of dismissal was illegal on the ground that the order was passed by the Superintendent after considering the explanation himself which violated the principles of natural justice. It was further observed that it was not open to the Superintendent to sit in the judgement over the explanation offered by the employee and decide that the explanation was untrue. No person could be judged in his own case and no witness could clarify that his own testimony was true.

13. In the instant case we find that the G. M. Shri Tripathy had of course directed the Agent, Barora Area for issuance of chargesheet against the concerned workman with suspension order. The explanation was submitted by the concerned workman but it was not examined by Shri Tripathy. Ext. M-3 shows that the explanation was examined by the then G. M. Barora Area who having found the explanation no satisfactory ordered for detailed enquiry vide his letter No. BCCL/GM-1/PA/43083 dated 1/3-6-83. This letter is an office order Ext. M-4 passed by the Acting G. M. Barora area. The enquiry report Ext. M-5 was not examined by Shri Tripathy rather it was examined by the Dy. C.M.E. Muraidih colliery and the order of the dismissal

was also passed by the same authority (Ext. M-3). In this way I find that Shri Tripathy was not at all a judge in his own case. He had simply directed for issuance of chargesheet with the order of suspension. Since there was an occurrence the follow-up action was to issue chargesheet which could have been necessarily done by the Agent, and so any such direction had no sense. Certainly such endorsement on the body of the AIR was unwarranted and without jurisdiction. He should have, if at all necessary issued such direction on separate piece of paper and not on the FIR which is considered to be the most important document in the Criminal trial.

14. The charge recites that the violent mob wanted to do away with the life of Shri Tripathy. At this stage I may refer to the injury report. Admittedly, as disclosed from the injury report Shri Tripathy did not sustain any bleeding injury. The injury report of Shri Tripathy is Ext. M-6|13. He had sustained one swelling and abrasion over the paraital area although the nature of injuries have not been noted but the dimension as noted in the injury report will simply reveal that they were simple in nature. The doctor did not find any bleeding injury as alleged by the management. Similar is the case with the injury report of Shri K. K. Khadia Ext. M-6|12. He had also sustained one bruise and one swelling which was definitely simple in nature. In this way both the injured has sustained injuries which were very simple and superficial in nature. As revealed from the evidence of the witnesses and the chargesheet the members of the mob were armed with bhalla, bow and arrows also but none of those weapons were ever used by any member of the mob. Without any prejudice to the criminal trial I would like to mention that if the members of the mob had ever intended to kill Shri Tripathy then some of them were expected to have hurled at least bhalla blow but I find that no bhalla blow was given nor any attempt was made to cause injury by bhalla. I find that there was no intervening circumstances which could have prevented the assailant from causing injuries by bhalla. In the result, I am to hold that they had never intended to kill Sri Tripathy as alleged in the chargesheet. However, it is well proved that Shri Tripathy and Shri Khadia both had sustained injuries on their person and this is supported by documentary as well as oral evidence.

15. Lastly it was contended that the order of dismissal was not passed by the competent authority. I find that the order of dismissal was passed by the Dy. C. M. E., Muraidih colliery whereas the concerned workman is an employee of Barora colliery. In this connection I may refer to para-33 of the W. S. filed by the management wherein it has been submitted that Barora colliery was merged as a section of Muraidih colliery and Dy. C.M.E./Agent Muraidih colliery was quite competent to issue the dismissal order as he was the Agent of Barora mines as well as Muraidih colliery.

16. I have considered all the important aspects of the matter and on the basis of discussion made above I am to hold that the concerned workman namely Shri Baban Yadav had led the mob and also caused injury to the person of Shri H. N. Tripathy, General Manager. But one thing cannot be ignored at this state since there was some casualty on account of bursting of water tank and it was natural for the workmen to go for agitation against the management and in such situation the mob is mostly guided by their own emotions and sentiments. Keeping these facts in view I feel that the punishment of dismissal will be harsh punishment and for causing simple hurt even to the higher official one should not be dismissed rather some alternative punishment like stoppage of increment, which is also one of the major penalty should be inflicted. I also find that there is no previous history of any such act on the part of the concerned workman. In the circumstances, the order of dismissal is reduced to the reinstatement of the concerned workman without any payment of back wages and with permanent stoppage of one increment. However, the concerned workman will get continuity of his service. The management is therefore directed to reinstate the concerned workman in his service within one month from the date of publication of the Award. The concerned workman will not be paid anything as back wages and further his one increment will be stopped permanently.

This is my Award.

B. RAM, Presiding Officer
[No. L-120012|268|86-D.II(A)]

K. J. DYVA PRASAD, Desk Officer

